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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91165519
Party	Plaintiff Corporacion Habanos, S.A.
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application  
Serial No. 78/363024  
Filed February 5, 2004  
For the mark HAVANA CLUB  
Published in the *Official Gazette* on December 14, 2004

CORPORACION HABANOS, S.A.,	)	
	)	Opposition No. 91165519
Opposer,	)	
	)	
v.	)	
	)	
ANNCAS, INC.,	)	
	)	
Applicant.	)	
	)	

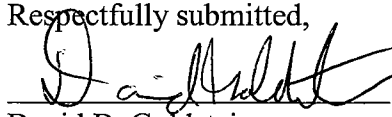
**RE-NOTICE OF TAKING TRIAL TESTIMONY BY ORAL DEPOSITION**

PLEASE TAKE NOTICE THAT, pursuant to Title 37 of the Code of Federal Regulations Section 2.123, Opposer Corporacion Habanos, S.A. will take the trial testimony by deposition upon oral examination of Richard B. Perelman, 3580 Wilshire Boulevard, Suite 1290, Los Angeles, CA 90010. The deposition will be held at said location, on August 31, 2007, at 9:30 a.m., and will continue from day to day until completed. The deposition will be held before a notary public or other person authorized by law to administer oaths, and will be recorded by stenographic means. By stipulation and agreement, counsel for the parties shall take the deposition remotely by telephone.

Dated: August 21, 2007

Respectfully submitted,

By:

  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing document was emailed to and was served on Applicant by mailing, postage prepaid, said copy on August 21, 2007 via U.S. Mail to:

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DAVID B. GOLDSTEIN

**Richard B. Perelman**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CORPORACION HABANOS, S.A.,

)

)

)

Opposer,

)

)

**COPY**

vs.

) 91165519

)

ANNCAS, INC.,

)

)

Applicant.

)

)

DEPOSITION OF RICHARD B. PERELMAN

Friday, August 31, 2007

Los Angeles, California

Reported by:

RUBEN GARCIA

CSR No. 11305

Job No. 924734/196642





1 APPEARANCES:

2

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1 Los Angeles, California, Friday, August 31, 2007

2 9:36 a.m. - 12:01 p.m.

3

4

5 MR. GOLDSTEIN: We're going to want to read and sign.

6 I want a full transcript, a mini and an E-tran.

7 Send me the original and I will arrange for reading and

8 signing. I want it by September 15th.

9 MR. SANCHELIMA: I'm Jesus Sanchelima. I represent  
10 the applicant.

11 MR. GOLDSTEIN: I represent the opposer.

12 MR. SANCHELIMA: I am in Miami.

13 MR. GOLDSTEIN: Is that everybody who is here?

14 MR. SANCHELIMA: Yes, just me and Pablo, my  
15 assistant.

16 MR. GOLDSTEIN: Pablo is with you?

17 MR. SANCHELIMA: He may come in and out.

18 MR. GOLDSTEIN: Let's go on the record.

19 Before we swear in the witness, I just want to  
20 note for the record that it's a telephone deposition by  
21 agreement and stipulation of the parties. And as a  
22 formality, Jay, do you have any objection to marking the  
23 re-notice of taking the trial testimony from August 21 as  
24 Perelman Exhibit 1?

25 MR. SANCHELIMA: Just the notice?

1 MR. GOLDSTEIN: Yeah.

2 MR. SANCHELIMA: Are you within your testimony  
3 period?

4 MR. GOLDSTEIN: Yeah, under the stipulation I am.

5 MR. SANCHELIMA: I don't know. Let's just go on with  
6 the deposition. We'll battle over this stuff later.  
7 Because I don't know. I don't have the benefit of that.  
8 I haven't really read any of that stuff.

9 MR. GOLDSTEIN: All right.

10 MR. SANCHELIMA: Just take your deposition. We'll go  
11 forward. I can't say one way or another.

12 MR. GOLDSTEIN: Why don't we swear the witness and  
13 have him state his name and address for the record.

14

15 RICHARD B. PERELMAN,  
16 having been administered an oath, was examined and  
17 testified as follows:

18 THE WITNESS: Yes, I do.

19 My name is Richard Brian Perelman. I'm located  
20 here in Los Angeles. I am in my office at 3580 Wilshire  
21 Boulevard, Suite 1290, Los Angeles, 90010.

22

23 EXAMINATION

24 BY MR. GOLDSTEIN:

25 Q Mr. Perelman, you understand you're under oath?

1           **A     Yes, I do.**

2           Q     And because this is a telephone deposition, if  
3     you have any trouble hearing either of the attorneys,  
4     please let us know and we'll repeat or rephrase any  
5     questions. Do you understand that?

6           **A     Yes, I do.**

7           Q     In particular, if you don't understand a  
8     question, you can advise that you don't understand the  
9     question. Okay?

10          **A     Okay.**

11          Q     And if you need to take a break, you should let  
12     us know, and that's okay also. But you should answer a  
13     pending question.

14          **A     Okay.**

15          Q     And you'll have to answer. You won't be able to  
16     nod or things like that.

17          **A     Right.**

18          Q     You should be aware that Mr. Sanchelima has the  
19     right to object to questions that I ask, and if he asks  
20     questions I would have the right to object to those  
21     questions. The reporter will take down the objections,  
22     but you'll still answer the questions unless for some  
23     reason there's an instruction not to answer and you want  
24     to follow that instruction.

25          **A     Okay. I understand.**

1           Q     And you also understand that you're giving  
2     testimony in a matter before the Trademark Trial and  
3     Appeal Board known as Corporacion Habanos, S.A. versus  
4     Anncas, Inc. concerning the cigar mark, Havana Club?

5           A     **Yes, I understand.**

6           Q     Mr. Perelman, where are you currently employed?

7           A     **I am the president of Perelman Pioneer & Company**  
8     **in Los Angeles, California.**

9           Q     Are you also an owner or the owner of the  
10    company?

11          A     **I am the owner.**

12          Q     In addition to being president, is there a board  
13    and are you on that board?

14          A     **There is a board, and I am a member of that**  
15    **board.**

16          Q     Now, I just want to briefly go into some of your  
17    background. What kind of college or post-college  
18    education have you had?

19          A     **I graduated from UCLA with honors in 1978, and I**  
20    **graduated from Loyola Law School in 1981. I am a member**  
21    **of the California bar, although I do not currently**  
22    **practice law.**

23          Q     And when you graduated in 1981, or thereafter,  
24    have you practiced law?

25          A     **I have not been a member of a law firm. I was**

1     **an intern for United States Magistrate during my term**  
2     **in -- my last term in law school.**

3           Q     But after graduation you haven't actually  
4     practiced law; is that correct?

5           A     **That's correct.**

6           Q     And just briefly, after law school and before  
7     the founding of Perelman Pioneer, what kind of jobs did  
8     you have? What did you do?

9           A     **I was hired after graduation by the Los Angeles**  
10    **Olympic Organizing Committee, and I was the vice president**  
11    **responsible for press operations from 1981 to 1984. After**  
12    **the 1984 Olympic games were concluded, I was the editor in**  
13    **chief of the official report of the 1984 Olympic games,**  
14    **and that lasted through 1985. And in the 1985/1986 time**  
15    **period, I worked for David Wolper in the organization of**  
16    **the so-called Liberty Weekend, the centennial celebration**  
17    **of the Statue of Liberty in New York.**

18                   **And after that program finished in 1986, I**  
19    **founded this company.**

20           Q     And you founded Perelman Pioneer in what year?

21           A     **1986.**

22           Q     What does Perelman Pioneer do?

23           A     **Perelman Pioneer is involved in the management**  
24    **of special events and in publishing.**

25           Q     And does it have activities related to the cigar



1 industry?

2           **A**     **Yes. We're deeply involved in the publishing**  
3 **area with regard to cigars. We have a website,**  
4 **CigarCyclopedia.com, which is either the first or second**  
5 **largest cigar information site in the United States. We**  
6 **also publish the Perelman's Pocket Cyclopedia of Cigars,**  
7 **which has now completed 13 editions. We're getting ready**  
8 **for the 14th edition in 2008. And we have published three**  
9 **editions of a companion pocket encyclopedia about Havana**  
10 **cigars. That started in 1997. We did a 1998 edition and**  
11 **we did an edition in 2005.**

12           **Q**     **When you say you have done 13 editions of the**  
13 **Perelman's Pocket Cyclopedia Cigars and you're on your**  
14 **14th, is that an annual, you put it out each year?**

15           **A**     **Yes, we began in 1995. That was the first**  
16 **edition. And the 2007 is the 13th edition. 2008 will be**  
17 **the 14th edition. It's published annually in December.**

18           **Q**     **And what does your Cigar Cyclopedia website do?**

19           **A**     **Well, the website is an all-in-one reference to**  
20 **cigars, both those cigars which are marketed in the United**  
21 **States and Cuban cigars, based primarily on our two books.**  
22 **We also were the first site to introduce daily news**  
23 **coverage of the cigar industry Monday through Friday.**

24                   **The Pocket Cyclopedia and the Pocket Cyclopedia**  
25 **of Havana Cigars are designed to provide primarily**

1 consumers with an overview of the, in the case of the  
2 Pocket Cyclopedia, cigars marketed nationally in the  
3 United States, and in the case of the Havana Cyclopedia  
4 with cigars which are made for export from Cuba.

5 Q And are you, your company, or -- let me ask it  
6 this way. Is the website affiliated with any cigar  
7 company, cigar distributor or manufacturer or retailer?

8 A It is operated independently by our company.  
9 However, we do have advertising from some cigar companies  
10 on the website.

11 Q And in terms of the book that's also published  
12 by your company, independent of any other cigar company?

13 A Yes. That's correct. It's not funded by any  
14 individual cigar company. However, we do accept  
15 advertising from cigar companies.

16 Q What kind of news does the website focus on, in  
17 terms of cigars?

18 A We try and cover the waterfront as much as  
19 possible. We deal with information about brands, about  
20 cigar events, about legislation, regulation, oddities,  
21 auctions, anything that we think would be of interest to  
22 our readership, which is now fairly large. We had 150,000  
23 visits to our website last month.

24 Q And what percent of Perelman Pioneer's business  
25 would you say is cigar-business related or cigar-industry

1 related?

2           **A**     At the present time I think the percentage is  
3           probably in the 60 percent range, maybe a little higher in  
4           terms of the amount of time spent.

5           **Q**     And how many staff do you have working on the  
6           cigar side of your business?

7           **A**     On the cigar side there are three people who  
8           are, for all intents and purposes, full-time working on  
9           various aspects of the website and the Pocket Cyclopedia,  
10          which are produced jointly. It's all part of the same  
11          effort.

12          **Q**     And you smoke cigars; is that correct?

13          **A**     Yes, I certainly do.

14          **Q**     And when did you start smoking cigars?

15          **A**     I started smoking 1989, I think, was the start  
16          of it.

17          **Q**     And from the consumption side, from the side of  
18          someone who is a cigar smoker, as opposed to from the  
19          information side, do you consider yourself to be  
20          knowledgeable about cigars?

21          **A**     Yes. I've put in enough time and have smoked  
22          thousands of cigars and I think I would be -- I would  
23          consider myself to be widely versed and extremely  
24          knowledgeable about cigars.

25                   There are people in the industry who will call

1 me expert, but I would just simply prefer to be called  
2 very knowledgeable.

3 Q What led you into cigar-related work, like the  
4 Cyclopedia? I guess that was your first endeavor in the  
5 cigar business?

6 A Yes. The Cyclopedia was a development from my  
7 own background in special events and sports, dealing with  
8 the Olympics and other events. The best analogy I can  
9 make would be to the sport of baseball, where there is a  
10 book called the Baseball Register that comes out every  
11 year, and it has the records of all the players who are on  
12 major league rosters.

13 When I got into cigars and was interested in  
14 finding new and different cigars that I could try that  
15 would be interesting and that were not stocked at my local  
16 tobacco shop, I tried to find some sort of book or  
17 publication that would list all the cigars that were  
18 available, and I couldn't find one. So necessity being  
19 the mother of invention, I created my own book, and we  
20 have been selling it ever since.

21 Q Can you describe how your company puts together  
22 the annual Cigar Cyclopedia, in other words, how does it  
23 gather the information?

24 A Yes. We gather the information primarily  
25 through three different avenues. We attend the two major

1 trade shows that deal with cigars in the United States.  
2 There's a show that focuses on machine-made cigars and  
3 little cigars, and that is called the Tobacco Plus Expo.  
4 And that's held annually in late March in Las Vegas.

5 For the premium side of the business, the  
6 handmade cigars, which is by far the majority of the  
7 cigars that we cover in the Pocket Cyclopedia, we attend  
8 the annual four-day Retail Tobacco Dealers of America  
9 trade show. The 2007 edition was just held earlier this  
10 month in Houston, Texas. So that's the first leg.

11 We then will make telephone calls and send faxes  
12 and electronic mail messages to every other manufacturer  
13 or distributor of cigars which are marketed nationally in  
14 the United States that we either know of or can find, and  
15 we ask them to fill out a form or to send us information  
16 that would allow us to list their brands or to disqualify  
17 them from listing in the next edition of the Pocket  
18 Cyclopedia. That effort for the 2008 edition is about to  
19 begin.

20 And then the third aspect is we get every year a  
21 number of manufacturers and distributors who call us or  
22 write to us either by snail mail or by electronic mail or  
23 by telephone calls asking us to list their brands. And we  
24 gather the information that we need from them and then we  
25 make a decision as to whether to list them or not.

1           Q     In the course of the years of putting together  
2     the book, who have you spoken to on the chain from growers  
3     to retailers?

4           A     Well, everybody, because there are cigar  
5     manufacturers and distributors who are also growers and  
6     are completely vertically integrated. They grow the leaf.  
7     They harvest the leaf. They cure the leaf and then they  
8     blend it and create the cigars. We deal mostly with  
9     manufacturers and distributors. But a significant number  
10    of those people, especially manufacturers, also are deeply  
11    involved in the agricultural aspects.

12          Q     Over the years, I don't know if you can do an  
13    estimate or not, but can you estimate how much time you've  
14    spent speaking with, dealing with people in the United  
15    States in the cigar industry in the course of putting  
16    together your books and the website?

17          A     Well, it's thousands of hours. It's easily a  
18    thousand hours a year. We spend an enormous amount of  
19    time talking with people on the telephone and exchanging  
20    electronic mail messages and going through a lot of  
21    printed material that we're sent, along with a lot of  
22    cigars. We have a lot of cigars that we get sent. And we  
23    try to sample most of them and then to write reports on  
24    them. But we spend an enormous amount of time, not only  
25    myself, but the other two associates we have here, dealing

1 with people in the cigar industry.

2 Q And you talked about how the people you deal  
3 with in the industry provide you with information about  
4 their products. What information is it that they provide  
5 that you publish in the Pocket Cyclopedia?

6 A We're primarily interested in the name of the  
7 brand, where it is produced, what sizes and shapes they  
8 make, how those sizes and shapes are packaged, the wrapper  
9 color. And then the details of where the tobacco that is  
10 in those cigars is grown; that is, what country.

11 So for all of the premium cigars, with only a  
12 handful of exceptions, we list in what country the  
13 wrapper, binder and filler leaves for each cigar are  
14 grown. And in many cases we will get substantial  
15 additional detail from the manufacturers and distributors  
16 that in many cases will tell us what kind of tobacco or  
17 something specific about the tobacco that is included in  
18 their cigars.

19 For example, many cigars that use Mexican  
20 wrappers are of a maduro shade, meaning it's a very dark  
21 cigar and many of the manufacturers will tell us this is a  
22 Mexican morron, m-o-r-r-o-n, wrapper, which is a specific  
23 kind of tobacco which is grown in Mexico.

24 Q The information that you publish in your book  
25 about the country of origin of the tobacco and the other

1 information, that's information provided to you by the  
2 manufacturers or the distributors?

3 A Yes, that's correct.

4 Q Do you verify the accuracy? I mean, if someone  
5 says it's a Mexican morron wrapper, is there a way for you  
6 to verify that?

7 A Other than asking them additional questions,  
8 it's impossible for us to verify. There are people who  
9 will tell you that the wrapper or binder or filler is a  
10 kind of tobacco, and then we always come back with the  
11 question, "Where was it grown?" So there will be people  
12 who will say this is a Connecticut-shade wrapper to which  
13 our response is, "Is it grown in the United States in  
14 Connecticut, or is it grown in Ecuador or somewhere else?"  
15 And sometimes it's grown in the United States and  
16 sometimes it's grown in Ecuador or in some third country.

17 But we have no way of independently verifying  
18 where these leaves are grown because there's no  
19 identification on the leaf itself.

20 Q You can't look at the cigar and say, "Ha ha.  
21 It's not grown here. It's grown there"?

22 A It's not possible. Maybe there's someone  
23 somewhere who can do it, but I'm not aware of anybody.  
24 And we certainly can't do it.

25 Q Approximately how many premium brands does your



1 annual Pocket Cyclopedia list?

2           **A**     Well, it fluctuates with the industry. Our  
3 first edition in 1995 had 370 brands. And that included  
4 handmade, machine-made and small cigars.

5           The 2007 edition had 1,233 brands, I believe,  
6 and approximately 1,094 of those were handmade brands.

7           Q     And you also published something called  
8 Perelman's Pocket Cyclopedia of Havana Cigars. You  
9 mentioned that?

10          **A**     Yes, that's correct.

11          Q     And what is that?

12          **A**     The Pocket Cyclopedia of Havana Cigars was  
13 created in response to many requests that we got from  
14 readers of the Pocket Cyclopedia saying, "You have to do  
15 something about Cuban cigars," so we did. We compiled a  
16 book that was first published in '97. That sold out very  
17 quickly at the height of the cigar boom. We then did  
18 another edition in 1998 where we printed more copies and  
19 it didn't sell -- it sold about as well as the previous  
20 one, but we expected it to do better. So we didn't do a  
21 third edition until 2005. And we'll probably do a fourth  
22 edition in 2008.

23          Q     And why is the book called Pocket Cyclopedia of  
24 Havana Cigars?

25          **A**     Because it deals solely with Cuban cigars. It

1     **does not deal with any other kind of cigars. Only cigars**  
2     **which are produced in Cuba.**

3           Q     And another word for a cigar from Cuba is a  
4     Havana cigar; is that right?

5           A     **Yes, Cuban cigars are generally referred to as**  
6     **Havanas, which is a historical reference to the cigar**  
7     **capital of the world, if you will, Havana, Cuba, which is**  
8     **where most of the major factories, not all, but most of**  
9     **the major factories which produce cigars in Cuba were**  
10    **located in the past and are located now.**

11          Q     And have you been to Cuba in connection with  
12    research for the Pocket Cyclopedia of Havana Cigars?

13          A     **Yes. I was there twice in 1997 and 1998. Both**  
14    **times under license from the U.S. Treasury Department.**

15          Q     What did you do in Cuba as part of gathering  
16    information, I mean, just generally, your overview?

17          A     **I met with officials in the Cuban cigar**  
18    **industry. I visited some of the fields and curing barns**  
19    **in Cuba. And I went to a series of briefings and tours of**  
20    **cigar factories in Cuba.**

21          MR. GOLDSTEIN: Can the reporter pull from the pile  
22    the document that on the first page has Perelman's Pocket  
23    Cyclopedia of Havana Cigars, Third Edition?

24          THE WITNESS: Okay. He has handed me a document  
25    here, which has the cover of our third edition book on it.

1 MR. GOLDSTEIN: And can you mark that as Perelman  
2 Exhibit 1 for identification.

3 (Deposition Exhibit 1 was marked for  
4 identification by the court reporter.)

5 MR. SANCHELIMA: Do I have a copy of that?

6 MR. GOLDSTEIN: It's from the e-mail. I had  
7 described that document to you.

8 MR. SANCHELIMA: Do you have a Bates number? I got  
9 Bates number HAB 00484 to 489. That's what I've got.  
10 That's the Perelman's Pocket Cyclopedia of Havana Cigars.

11 MR. GOLDSTEIN: The version I sent is from one of the  
12 exhibits to the summary judgment, which I had identified  
13 in my e-mail to you. That's the copy they have. But it's  
14 the same thing. It's about seven or eight pages from  
15 the -- excerpt from the beginning of the book.

16 MR. SANCHELIMA: You didn't send me this exhibit with  
17 the e-mail?

18 MR. GOLDSTEIN: With the e-mail I said where I got it  
19 from, and I asked if you needed anything.

20 MR. SANCHELIMA: I don't have it here.

21 MR. GOLDSTEIN: Well, I identified it for you. It's  
22 in the summary judgment documents.

23 Richard can tell you what pages it is.

24 MR. SANCHELIMA: How many pages are you talking  
25 about?

1 MR. GOLDSTEIN: Nine pages.

2 MR. SANCHELIMA: Can you fax it to me so that I can  
3 have a copy?

4 MR. GOLDSTEIN: Yeah, I think I identified it.

5 MR. SANCHELIMA: You may have. The easiest way, if  
6 you can drop it in a fax machine now and we can move on.

7 MR. GOLDSTEIN: What's that?

8 MR. SANCHELIMA: If you can move on to some other  
9 topic and in the meantime fax it, have your secretary fax  
10 it to my number, and then we'll catch up with this exhibit  
11 later on.

12 MR. GOLDSTEIN: Okay. We'll come back to that. It's  
13 the last few pages of either Exhibit 8, 9 or 10 of my  
14 summary judgment exhibit. It's the one that refers to  
15 books that have "Havana" in the title, but you'll get it  
16 by fax.

17 MR. SANCHELIMA: I'm back.

18 BY MR. GOLDSTEIN:

19 Q Do you also -- have you also written articles  
20 about cigars for cigar magazines?

21 A Yes.

22 Q And what magazines either have you written for  
23 or do you write for?

24 A I'm a quarterly columnist for the European  
25 Cigar-Cult Journal. I have also written for Smokeshop

1 Magazine, which is a trade publication. Penthouse.  
2 Cigars & More, which is a magazine that's now defunct.  
3 Cigar Lifestyles, that's another magazine that's now  
4 defunct. And a number of others.

5 Q Were you retained by the lawyers for Habanos,  
6 S.A. to provide an expert opinion in this matter?

7 A Yes.

8 Q And have you ever previously been retained as an  
9 expert in any matter?

10 A No.

11 Q And are you being paid an hourly fee in this  
12 case?

13 A Yes.

14 Q And do you know how much you're being paid?

15 A \$300 an hour.

16 Q Were you asked by the lawyers for Habanos, S.A.  
17 to prepare an expert report?

18 A Yes, I was.

19 Q And did you prepare such a report?

20 A Yes.

21 Q And did you sign the document?

22 A Yes.

23 MR. GOLDSTEIN: Why don't we mark as -- if you  
24 could look for the document that has the case caption  
25 and declaration of Richard Perelman and mark that as

1 Perelman 2.

2 (Deposition Exhibit 2 was marked for  
3 identification by the court reporter.)

4 THE WITNESS: Okay. I have it.

5 BY MR. GOLDSTEIN:

6 Q The reporter is showing you what's been  
7 marked --

8 MR. SANCHELIMA: Can you fax this to me? Is it one  
9 page? Two page?

10 MR. GOLDSTEIN: No. It's like 51 pages. I told you  
11 in me e-mail that's what I was going to be using.

12 MR. SANCHELIMA: I don't have it with me. So I'm  
13 going to oppose to its introduction because I don't have a  
14 copy.

15 MR. GOLDSTEIN: You do have a copy. It's been filed  
16 in the TKB. You definitely have a copy.

17 MR. SANCHELIMA: I may have it in my file, but not  
18 here with me.

19 MR. GOLDSTEIN: Well, I sent you an e-mail saying I  
20 was going to be using it.

21 MR. SANCHELIMA: We'll deal with that later. Go on.

22 BY MR. GOLDSTEIN:

23 Q The reporter is showing you what has been marked  
24 as Perelman Exhibit 2. Can you identify that document?

25 A Yes, I have it in front of me.

1 Q And what is that document?

2 A It says "Declaration of Richard B. Perelman" and  
3 there are exhibits attached to it.

4 Q And is that the expert report we've been  
5 referring to?

6 A It appears to be so, yes.

7 Q If you look on page 10.

8 A Page 10.

9 Q Is that your signature?

10 A That is my signature.

11 Q Ask it's above "Richard B. Perelman" in type?

12 A Yes.

13 Q And the date on that?

14 A Second day of August, 2006.

15 Q And was this, your expert report, accurate when  
16 prepared?

17 A Yes.

18 Q Have you reviewed it recently?

19 A I have.

20 Q And is the report still accurate?

21 A There are a couple of minor changes because we  
22 are one year after the filing of this report, the number  
23 of editions of Perelman's Pocket Cyclopedia of Cigars has  
24 changed from 12 to 13. And the reference number of visits  
25 to our CigarCyclopedia.com website is now not the same.

1     **It was cited on page 2 as 90,000 times as of June 2006.**

2     **And the number was in excess of 150,000 times in the month**  
3     **of July 2007.**

4           Q     And other than that, are there any other changes  
5     to that report?

6           A     **So far as I know, no.**

7           Q     After page 10 there's an Exhibit 1. And what is  
8     that?

9           A     **There is what I would call a resume, what you**  
10    **would call a curriculum vitae.**

11          Q     For yourself?

12          A     **That's correct.**

13          MR. SANCHELIMA: Just so the record is clear, I am  
14    objecting to all those exhibits.

15          MR. GOLDSTEIN: What's that, Jay?

16          MR. SANCHELIMA: I am objecting to all those exhibits  
17    that are included in the report also.

18          MR. GOLDSTEIN: Do you want to take five minutes and  
19    pull it from your file instead of making these objections  
20    when it's sitting in your office somewhere?

21          MR. SANCHELIMA: I have to look for them and my  
22    paralegal went to lunch now. So when he comes back, I  
23    will see if he can look for them. I have another person  
24    looking for them, but I can't find them.

25          MR. GOLDSTEIN: Do you want me to e-mail them to you



1     because this is ridiculous. I told you what I was going  
2     to use. You have the documents. You didn't tell me you  
3     didn't have them, and now you're objecting because you  
4     didn't bring them into the room with you.

5           MR. SANCHELIMA: If we were in a deposition, we would  
6     have all the documents that you're offering in front of us  
7     for inspection and so forth.

8           MR. GOLDSTEIN: That's why I told you in advance what  
9     I was using.

10          MR. SANCHELIMA: What did you tell me in advance, the  
11     memo from August 29th? Is that the one you're referring  
12     to? The one two days ago? That's not enough notice for  
13     me.

14          MR. GOLDSTEIN: Two days to go into your file and  
15     find documents?

16          MR. SANCHELIMA: It's not the only case I have. Do  
17     you want to e-mail it to me?

18          MR. GOLDSTEIN: I'll e-mail them to you.

19          MR. SANCHELIMA: I just received Exhibit 1.

20          MR. GOLDSTEIN: What's that?

21          MR. SANCHELIMA: I just received Exhibit 1.

22          MR. GOLDSTEIN: Which is what?

23          MR. SANCHELIMA: The one that you marked.

24          MR. GOLDSTEIN: The one that I faxed to you?

25          MR. SANCHELIMA: Perelman's Pocket Cyclopedia of

1 Havana Cigars?

2 MR. GOLDSTEIN: Yes.

3 MR. SANCHELIMA: That's what I got.

4 MR. GOLDSTEIN: I am forwarding you now the documents  
5 that I sent to the reporter.

6 Let's take five minutes while you figure out  
7 what's going on.

8 (Recess.)

9 BY MR. GOLDSTEIN:

10 Q Let's go back to Exhibit 1. The reporter is  
11 showing you what has been marked as Perelman Exhibit 1.  
12 Can you identify that document?

13 A Yes, I can. It's some pages photocopied from  
14 our third edition of Perelman's Pocket Cyclopedia of  
15 Havana Cigars.

16 Q And on the second page in it says, "Compiled by  
17 Richard B. Perelman, published by Perelman Pioneer &  
18 Company"?

19 A Correct.

20 Q That's you?

21 A That's correct.

22 Q And the publication date is 2005; is that  
23 correct?

24 A Correct.

25 Q And these are excerpts from the third edition of

1 the book that you were talking about that you published  
2 about Cuban cigars?

3 **A That's correct.**

4 MR. GOLDSTEIN: And opposer offers Perelman Exhibit 1  
5 in evidence.

6 BY MR. GOLDSTEIN:

7 Q If you take a look, the first numbered page,  
8 "Introduction"?

9 **A Yes, I see it.**

10 Q And in the second sentence of the first  
11 paragraph you refer to, "The world of Havana cigars has  
12 become much more dynamic."

13 **A Yes.**

14 Q And by "Havana cigars" you're referring to Cuban  
15 cigars; is that correct?

16 **A Yes, that's correct.**

17 MR. GOLDSTEIN: That's all I have on that.

18 Have you got your e-mail?

19 MR. SANCHELIMA: If it's his report, why do you need  
20 his report if you have it there?

21 MR. GOLDSTEIN: Pardon?

22 MR. SANCHELIMA: You're going to be asking questions  
23 about this report?

24 MR. GOLDSTEIN: Yes. Ready to go?

25 MR. SANCHELIMA: I have not received it. I'll tell

1 you what. If you send me a copy with the transcript of  
2 the report and he says that everything he wrote in that  
3 report is accurate, I won't have an objection.

4 MR. GOLDSTEIN: I'm up to Exhibit 1. I just want to  
5 make sure that's his C.V. I just want to ask him if  
6 there's any inaccuracies or changes to that.

7 BY MR. GOLDSTEIN:

8 Q Mr. Perelman, we were on Exhibit 1 of your  
9 expert report, which is what you described as your resume.

10 A Right.

11 Q And that was accurate at the time you put  
12 together your report?

13 A Yes.

14 Q And is it still accurate?

15 A I believe it is. There may be some minor  
16 changes. For example, we've now done 13 editions of the  
17 Pocket Cyclopedia instead of 12, but with minor  
18 differences having to do with one year being past, it's  
19 otherwise accurate.

20 Q And could you very briefly identify what Exhibit  
21 2 and Exhibit 3 are?

22 A Well, Exhibit 1, as you mentioned, is the  
23 resume. Then the next item is a document which is  
24 captioned, "Direct testimony of Edgar M. Cullman, Jr." in  
25 a matter before the United States District Court, Southern

1     **District of New York, "Cubatabaco versus Culbro Corp. and**  
2     **General Cigar Co., Inc."**

3           Q     And those following pages of Exhibit 2 were  
4     provided to you by the attorneys for Habanos, S.A.?

5           A     **Yes, that's correct.**

6           Q     And then Exhibit 3, if you continue, that's  
7     excerpts from Perelman's Pocket Cyclopedia Cigars 2006  
8     edition; is that right?

9           A     **Well, there's another --**

10          Q     I'm just pointing to where Exhibit 3 is. It's  
11     like the blank page.

12          A     **Well, there's a blank page here, that's correct.**  
13     **But then the next thing I have are excerpts from testimony**  
14     **of, or deposition of Angel Nunez.**

15          Q     Right. If you could just skip forward to where  
16     you see a blank page with the number 3 on it, which is  
17     Exhibit 3. And the next page is Perelman's Pocket  
18     cyclopedia Cigars.

19          A     **There is a blank page here. There is no**  
20     **number -- oh, I see it there. It's up in the upper**  
21     **right-hand corner. I see it. Okay. I was looking at the**  
22     **bottom. So there is a page which is otherwise blank**  
23     **except for the number 3.**

24          Q     Right. And following that is?

25          A     **Appears to be excerpts from the 2006 edition of**

1     **Perelman's Pocket Cyclopedia of Cigars.**

2             MR. GOLDSTEIN: Opposer offers Perelman Exhibit 2 in  
3     evidence.

4             MR. SANCHELIMA: I have an objection as to any  
5     documents that were not authored by Mr. Perelman,  
6     including the deposition experts of the District Court  
7     Division. There's no foundation as to how this document  
8     would be an exception to the Hearsay Rule. So that's my  
9     objection.

10            MR. GOLDSTEIN: You're objecting to Exhibit 2 to the  
11     report; is that right?

12            MR. SANCHELIMA: Well, to those documents --  
13     apparently Exhibit 2 has those exhibits associated with  
14     it, 1, 2, 3 and 4, I believe.

15            MR. GOLDSTEIN: Right.

16            MR. SANCHELIMA: I still have not received that  
17     e-mail. I don't want to obstruct your deposition  
18     necessarily. But any such documents that are not authored  
19     by the deponent is not sufficient basis for me to accept  
20     them being as authentic or in any way relevant to what  
21     we're talking about here.

22            MR. GOLDSTEIN: Just so it's clear, he's identified  
23     them as coming from the attorneys for Habanos, S.A., and  
24     you're objecting that that's the extent of his  
25     identification; is that correct?

1 MR. SANCHELIMA: Right.

2 MR. GOLDSTEIN: So it's not a question of me going  
3 through each one with him.

4 MR. SANCHELIMA: I don't have them all here, but I'm  
5 not --

6 MR. GOLDSTEIN: You may not have them in front of  
7 you, but you do have them.

8 MR. SANCHELIMA: If you want me to finish my  
9 objection, then I'll be glad to do it. I don't know if we  
10 can both talk at the same time.

11 MR. GOLDSTEIN: I thought you were done. I'm having  
12 a little trouble hearing you.

13 MR. SANCHELIMA: I object to any such document that  
14 were not authored by Mr. Perelman or in any way kept in  
15 the normal course of business or in any way would be an  
16 exception to the hearsay rule. That's my objection.

17 And the authenticity of those documents has not  
18 been established either.

19 MR. GOLDSTEIN: We'll argue it later, but it's  
20 documents that the expert is relying on, and they're being  
21 offered for what the expert is relying on. And I don't  
22 think there's any hearsay issue. It's neither here nor  
23 there.

24 BY MR. GOLDSTEIN:

25 Q Mr. Perelman, in connection with your retention

1 as an expert in this matter, were you provided with  
2 documents by attorneys?

3 **A Yes.**

4 Q Attorneys for Habanos, S.A.?

5 **A Yes.**

6 Q Do you recall what they were?

7 **A Well, they were the documents that I just noted**  
8 **in the package that I was handed by the reporter. There**  
9 **were excerpts of testimony by Edgar Cullman, Jr., by Oscar**  
10 **Boruchin. There were documents in this matter, responses**  
11 **to interrogatories and document production items. A large**  
12 **sheaf of papers was forwarded to me, which I reviewed at**  
13 **the request of the attorneys.**

14 Q And the documents that were provided to you by  
15 the attorneys are listed in your expert report?

16 **A Yes.**

17 Q Were you asked to assume certain facts about  
18 applicant's cigars -- when I say asked by the attorneys  
19 for Habanos, S.A., to assume certain facts about the  
20 applicant's cigars?

21 **A Yes.**

22 Q Do you recall what facts you were asked to  
23 assume?

24 **A My memory is that the attorneys asked me to**  
25 **assume that this new cigar, "Havana Club," was going to be**



1     **created with what were called Cuban seed tobaccos, and I**  
2     **was further asked to assume that there was no**  
3     **specification of the tobaccos other than to be called**  
4     **Cuban seed.**

5             MR. SANCHELIMA: I object to the question as being  
6     speculative.

7             MR. GOLDSTEIN: You object -- I'm sorry?

8             MR. SANCHELIMA: Speculative. The question that you  
9     asked.

10            MR. GOLDSTEIN: Okay.

11     BY MR. GOLDSTEIN:

12            Q     And do you recall what you were asked to assume  
13     about when the Cuban seed supposedly came from Cuba?

14            MR. SANCHELIMA: Same objection.

15            THE WITNESS: Do you want me to answer?

16            MR. GOLDSTEIN: Yeah. You'll basically answer when  
17     there's objections.

18            THE WITNESS: Okay. My memory is that the tobaccos  
19     which were deemed to be Cuban seed did not, in fact, come  
20     from Cuba, but were of seeds which may have come from Cuba  
21     at some time in the distant past, but not recently.

22     BY MR. GOLDSTEIN:

23            Q     And on what matter or matters were you asked to  
24     provide your expert opinion?

25            A     I was asked to provide an opinion on the meaning

1 of "Cuban seed tobacco" with regard to cigars which are  
2 produced today outside of Cuba, using tobaccos which were  
3 not grown in Cuba.

4 Q And in particular were you asked to answer three  
5 specific questions concerning Cuban seed tobacco not grown  
6 in Cuba?

7 A Yes.

8 Q And are those three questions set out in your  
9 expert report?

10 A Yes.

11 Q And I don't expect you to recall them verbatim,  
12 but do you recall that the first question was, "What does  
13 the term 'Cuban seed tobacco' or 'Cuban seed' mean or  
14 refer to when used for tobacco or tobacco seeds that are  
15 not grown in Cuba?"

16 A Yes, my memory is that that's correct. I'm not  
17 looking at the report now.

18 Q What does the term "Cuban seed tobacco" or  
19 "Cuban seeds" mean or refer to when used for tobacco or  
20 tobacco seeds that are --

21 MR. SANCHELIMA: I object to this question as being  
22 outside the expertise of this witness.

23 BY MR. GOLDSTEIN:

24 Q You can answer.

25 A In my opinion, and in my experience, the use of

1 the term "Cuban seed" for cigars which are manufactured  
2 for distribution in the United States has to do primarily  
3 with information that the manufacturer or distributor is  
4 trying to communicate to the consumer about the strength  
5 or heft of the leaf which is being used in the cigar. It  
6 would indicate that is a stronger tobacco than in  
7 comparison to other types.

8 Q This term generally as used in the United States  
9 refer to tobacco grown from seeds that are themselves from  
10 Cuba?

11 A Possibly in the distant, distant past. But  
12 there is a particular strain of so-called Cuban seed  
13 tobacco, which is called Piloto Cubano, which is grown  
14 extensively in the Dominican Republic. And some  
15 manufacturers and distributors use the terms "Piloto  
16 Cubano" and "Cuban seed" interchangeably, which from the  
17 standpoint of the consumer and what it means in the U.S.  
18 cigar trade today simply indicates what the heft or  
19 strength of the style of tobacco that's being used is. It  
20 does not indicate that the tobacco is itself from Cuba.

21 Q And do you have an understanding when these  
22 seeds are claimed to have been taken from Cuba?

23 MR. SANCHELIMA: Same objection. Outside the  
24 expertise of this witness.

25 THE WITNESS: It is generally understood to the point

1 of not ever being questioned that when there is a  
2 reference to Piloto Cubano or to Cuban seed, we're talking  
3 about some distant relationship with Cuba at a time prior  
4 to the United States trade embargo. So that would be  
5 1962. And so we're talking about some relationship to  
6 tobacco seeds that could have come from Cuba in the 1940s  
7 or 1950s or maybe 1960 or '61. But not any time after  
8 that.

9 BY MR. GOLDSTEIN:

10 Q You're referring to the seeds the tobacco today  
11 are multi-generational descendants from the seeds that  
12 were claimed to have come from Cuba?

13 A **That's correct. Dozens and dozens and dozens of**  
14 **generations later.**

15 MR. SANCHELIMA: My objection to this question is  
16 that there is no proper foundation. In addition, it's  
17 outside the scope of this witness's purported expertise.

18 BY MR. GOLDSTEIN:

19 Q Is there a way for a distributor in the United  
20 States of finished cigars to know if the tobacco in those  
21 cigars really comes from seeds that are descended from  
22 seeds that once upon a time came from Cuba?

23 MR. SANCHELIMA: Same objection as before.

24 THE WITNESS: Other than asking the manufacturer of  
25 the cigar or the provider of the tobacco for an indication

1 or a promise that the tobacco came from specific seeds,  
2 there is no identifiable way to discern where a specific  
3 leaf of tobacco was grown or from what seeds it was grown.  
4 The leaf itself is not marked in any way.

5 BY MR. GOLDSTEIN:

6 Q And is there any way for a typical or a U.S.  
7 cigar consumer to know that the cigar he's smoking really  
8 comes from seeds that are multi-generational descendents  
9 of seeds from Cuba?

10 A I would say it's impossible.

11 Q And would that be true for someone like you who  
12 would call yourself either experienced or expert in  
13 cigars?

14 A Yes, that's correct.

15 Q Would there be any way for anyone to know, other  
16 than the person who originally took the seeds and then  
17 grew the seeds generation after generation, where those  
18 seeds actually originated?

19 MR. SANCHELIMA: Objection. Improper foundation.  
20 Outside the witness's expertise.

21 THE WITNESS: I'm not aware of any way that someone  
22 other than the person who is actually providing the seed  
23 for planting would know.

24 BY MR. GOLDSTEIN:

25 Q You referred to something called Piloto Cubano.

1 And what is that?

2 **A Piloto Cubano is an identified strain of tobacco**  
3 **which is grown primarily in the Dominican Republic for use**  
4 **in handmade cigars.**

5 Q And is that also referred to by some as Cuban  
6 seed tobacco?

7 **A Yes. There are some manufacturers and**  
8 **distributors who use the terms interchangeably.**

9 Q And in your book, do manufacturers identify  
10 their tobacco as Piloto Cubano?

11 **A Yes, some do.**

12 Q And some identify it as Cuban seed?

13 **A Yes.**

14 Q And when they say Cuban seed, you don't have a  
15 way of knowing whether they're referring to Piloto Cubano  
16 unless they tell you?

17 **A That's correct.**

18 Q And is it your understanding that not all  
19 tobacco claimed to be Cuban seed is Piloto Cubano?

20 **A I am certain that that is true.**

21 Q Is it your understanding that the strain of  
22 tobacco called Piloto Cubano originated from seeds that  
23 came from Cuba?

24 **A That is what I have been told. I have no way of**  
25 **verifying that that in fact is the case. But that is what**

1     **I have been told.**

2           Q     And within the U.S. cigar industry, is there a  
3     common understanding of the origins of Piloto Cubano  
4     tobacco?

5           A     The generally understood nature of Piloto Cubano  
6     in the U.S. cigar industry is that it may have originated  
7     from seeds that came from Cuba at some time in the distant  
8     past. But the primary use of that term is to identify the  
9     strength and style of that kind of tobacco vis-a-vis other  
10    kinds and styles of tobacco.

11          Q     And what is the style that's associated with  
12    Piloto Cubano?

13          A     Piloto Cubano is generally -- that term and that  
14    type of tobacco are used to communicate to the consumer  
15    that the style of leaf and the heft of the leaf in terms  
16    of its smoking qualities are heavier and stronger than  
17    other kinds of leaf. For example, Dominican Olor, which  
18    is a different kind of leaf, which happens to be native to  
19    the Dominican Republic, that's a lighter leaf and is not  
20    considered to be as strong.

21                From the consumer's point of view, this places a  
22    stereotype of Cuban cigars being, in general, heavier and  
23    stronger than cigars that were smoked in the United  
24    States, particularly up until the 1980s.

25          MR. SANCHELIMA: I want to make sure that the court

1 reporter noted my objection that it has been all along  
2 that the testimony is outside the scope of expertise for  
3 which this witness is purported to be offered.

4 BY MR. GOLDSTEIN:

5 Q To your knowledge is there, in fact, any  
6 connection between Piloto Cubano and Cuba, other than the  
7 possibility that the seeds once originated in Cuba?

8 A None that I'm aware of.

9 Q And you had noted in Exhibit 2 of your expert  
10 report that there was some testimony that you're referring  
11 to that I had provided you with, or the attorneys for  
12 Habanos, which included me, had provided you with, from a  
13 case in the Southern District of New York, Empresa Cubana  
14 del Tabaco, Cubatabaco, vs. Culbro Corporation and General  
15 Cigar Co., Inc. Correct?

16 A Yes, that's correct.

17 Q While that case was going on, were you generally  
18 aware of the dispute?

19 A I was aware of the dispute. It was a well-known  
20 case.

21 Q And it involved a cigar. Do you recall the  
22 brand that was involved?

23 A Cohiba, if I remember correctly.

24 Q And one of the things I gave you was the excerpt  
25 from the direct testimony of Edgar M. Cullman, Jr. Do you



1 know who he is?

2 A Yes, I do.

3 Q And who is he?

4 A Right now he is a member of the Culbro  
5 Investment Trust. At the time that he was involved in  
6 this case, he was the son of the principal owner and one  
7 of the executives of Culbro Corporation, C-u-l-b-r-o, and  
8 General Cigar Company.

9 MR. SANCHELIMA: Where did you send that declaration?  
10 What e-mail did you use?

11 MR. GOLDSTEIN: I sent it to Jesus@Sanchelima.com and  
12 it's reading back to me -- give me a minute -- it's  
13 reading back to me Sanchelima, Jesus, which is you.

14 MR. SANCHELIMA: That's what your software identifies  
15 it as.

16 MR. GOLDSTEIN: Right. But the e-mail I used was  
17 Jesus@Sanchelima.com.

18 MR. SANCHELIMA: Right. Okay. I haven't gotten it  
19 yet.

20 MR. GOLDSTEIN: I also have a JSanchelima@Yahoo.com.

21 MR. SANCHELIMA: Don't use that. Don't use the Yahoo  
22 because there's not enough bandwidth here. Go ahead.

23 MR. GOLDSTEIN: I'm going to resend it. But that's  
24 the e-mail I used. I want you to have this, Jay.

25 MR. SANCHELIMA: Well, I have received everybody

1 else's. I have received 83 e-mails, and none of them are  
2 yours.

3 MR. GOLDSTEIN: You want it to Jesus@Sanchelima.com;  
4 right?

5 MR. SANCHELIMA: Right. J-e-s-u-s at Sanchelima,  
6 S-a-n-c-h-e-l-i-m-a.

7 MR. GOLDSTEIN: That's where I'm sending it. I'm  
8 going to resend both of them. I'm trying to find your  
9 paralegal's -- do you know Pablo's e-mail?

10 MR. SANCHELIMA: Send it to him, too.

11 MR. GOLDSTEIN: That's why I'm asking. Do you know  
12 his?

13 MR. SANCHELIMA: Legal@Sanchelima.com -- I'm sorry.  
14 LegalAssist@Sanchelima.com.

15 We received it and it's being printed now. 51  
16 pages.

17 MR. GOLDSTEIN: Do you want to wait a couple minutes?

18 MR. SANCHELIMA: Yeah. Let me see. All right. It's  
19 beginning to print. I have a declaration of Richard  
20 Perelman.

21 MR. GOLDSTEIN: That's Exhibit 2.

22 BY MR. GOLDSTEIN:

23 Q How would you describe General Cigar in terms of  
24 its relative size in the American cigar industry as a  
25 manufacturer and distributor?

1           **A     Swedish Match is -- General Cigar Company is now**  
2           **part of Swedish Match. And Swedish Match is the second**  
3           **largest seller of cigars in the U.S. market.**

4           Q     And prior to its acquisition by Swedish Match,  
5           General Cigar itself?

6           **A     General Cigar was the second largest distributor**  
7           **of premium cigars in the United States. It at one time**  
8           **was the second largest distributor of all kinds of cigars,**  
9           **but it sold its business in parts to Swedish Match.**

10          Q     And do you know or did you know Mr. Cullman when  
11          he was in the cigar business?

12          **A     Yes, I certainly did.**

13          Q     Did you consider him a knowledgeable person in  
14          the cigar business?

15          **A     Yes, absolutely.**

16          Q     Do you recall what he said in that testimony  
17          that you were provided with regarding Piloto Cubano and  
18          Cuban seed?

19          **A     My memory is that he dismissed any direct**  
20          **relationship between Piloto Cubano or Cuban seed tobaccos**  
21          **and Cuba itself.**

22          Q     And the next excerpt was from a deposition of  
23          Angel Nunez from the same case. Do you recall that?

24          **A     Yes.**

25          Q     And do you know --

1 MR. SANCHELIMA: One second. Let me get that. Whose  
2 deposition?

3 MR. GOLDSTEIN: Angel Nunez.

4 BY MR. GOLDSTEIN:

5 Q Excerpt from a deposition from October 30th,  
6 2001 in the same case. Do you know Angel Nunez?

7 A Yes. He's known as Daniel, Daniel Nunez.

8 Q And who is he?

9 A At the time of this deposition I believe  
10 Mr. Nunez was one of the people in charge of agronomy for  
11 General Cigar in the Dominican Republic. He is now  
12 president of General Cigar.

13 Q Do you recall him providing testimony concerning  
14 Piloto Cubano or Cuban seed?

15 A Yes. My memory is -- and I'm not looking at the  
16 deposition now, but my memory is that Daniel indicated  
17 that there was no direct connection between -- no current  
18 connection between Piloto Cubano or Cuban seed and Cuba  
19 itself. That it was a type of tobacco that was grown.

20 MR. SANCHELIMA: Objection.

21 BY MR. GOLDSTEIN:

22 Q Was the testimony of Mr. Cullman and Mr. Nunez  
23 that you looked at consistent with your understanding of  
24 Cuban seed tobacco?

25 MR. SANCHELIMA: Same objection.

1 THE WITNESS: Yes.

2 BY MR. GOLDSTEIN:

3 Q There was, I guess, a third excerpt, and that  
4 was from Oscar Boruchin from the same case from a  
5 deposition in July 2000 in Miami. Did you look at that  
6 excerpt?

7 A Yes, I did.

8 Q Do you know who Oscar Boruchin is?

9 A Yes.

10 Q And who is he?

11 A Oscar is the principal owner of a very large  
12 retail and wholesale cigar company called Mike's Cigars in  
13 Bay Harbor, Florida.

14 Q Do you have an understanding of whether  
15 Mr. Boruchin is a Cuban American, someone who was born in  
16 Cuba and now lives in the United States?

17 A Yes, he has told me that.

18 MR. SANCHELIMA: Objection. Hearsay.

19 BY MR. GOLDSTEIN:

20 Q Did you look at the testimony excerpts that you  
21 were provided from him?

22 A Yes.

23 Q Let me strike the question because it was  
24 incoherent.

25 Do you recall reviewing the deposition testimony

1 excerpts that you were provided with, from Mr. Boruchin's  
2 testimony?

3 **A Yes.**

4 **Q** And what do you recall of that concerning Cuban  
5 seed tobacco?

6 **MR. SANCHELIMA:** Objection. The document speaks for  
7 itself.

8 **BY MR. GOLDSTEIN:**

9 **Q** You can answer.

10 **A** Mr. Boruchin's testimony, as I remember it, was  
11 along the lines that the words "Cuban seed" were a widely  
12 understood joke within the cigar industry, and that in his  
13 view everybody knew that this type of tobacco was based  
14 on, or perhaps not based on, seeds that came from Cuba  
15 many, many, many, many generations ago and was not at all  
16 current or had any current relationship with the island of  
17 Cuba.

18 **Q** And do you agree with Mr. Boruchin that Cuban  
19 seed, the term "Cuban seed" is a joke?

20 **A** I think that's a very accurate way to put it.

21 **Q** And why do you consider it a joke?

22 **A** Mr. Boruchin's testimony is in line with exactly  
23 the same kinds of information that I'm given by  
24 manufacturers and distributors, and, in fact, tobacco  
25 growers that I spoke with today.

1 Q Which is?

2 A That so-called Cuban seed tobacco has nothing to  
3 do with Cuba, but in fact refers to a strain of tobacco  
4 which is stronger in taste and heft and presence in the  
5 mouth than other kinds of tobacco grown in other places.

6 MR. SANCHELIMA: Same objection.

7 BY MR. GOLDSTEIN:

8 Q Now, you had testified earlier, I believe, that  
9 Piloto Cubano provided -- the term Piloto Cubano may  
10 provide consumers with some information about the taste or  
11 flavor of the cigar; is that correct?

12 A That's correct.

13 Q And are cigars made from Piloto Cubano  
14 necessarily full-bodied or stronger cigars?

15 MR. SANCHELIMA: Objection.

16 THE WITNESS: Not necessarily. It depends on the  
17 blend. A cigar maker can blend a cigar with some Piloto  
18 Cubano tobacco in it, but it, in fact, can be even a  
19 mild-bodied cigar depending on what the rest of the leaves  
20 are that are included in that cigar.

21 BY MR. GOLDSTEIN:

22 Q Now, what about if the person -- let me strike  
23 the question.

24 I think I asked you this earlier. Some of your  
25 manufacturers or distributors identified their cigars

1 simply as Cuban seed; is that correct?

2           **A     They identified their cigars as being made with**  
3 **Cuban seed tobaccos, not necessarily being Cuban seed.**  
4 **There is no cigar that I'm aware of that's called Cuban**  
5 **seed as a brand name.**

6           **Q     You're correct. And my question meant to ask it**  
7 **that way. Your book identifies -- manufacturers have**  
8 **identified to you and published in your book that their**  
9 **cigars are made from tobaccos claimed to be from Cuban**  
10 **seed without further identification; is that correct?**

11           **A     It is correct to say that manufacturers and**  
12 **distributors have said that there are tobaccos which they**  
13 **claim to be Cuban seed which are included in their cigars.**  
14 **I'm not aware of any cigar which is made only from Cuban**  
15 **seed tobaccos. There have been such cigars in the past,**  
16 **but I'm not aware of any currently.**

17           **Q     If the manufacturer/distributor just says "Cuban**  
18 **seed" without identifying a variety or strain, does that**  
19 **tell the consumer anything about the cigar?**

20           **MR. SANCHELIMA: Objection.**

21           **THE WITNESS: It can potentially, depending on what**  
22 **else is told to the consumer, identify for the consumer**  
23 **that there are tobaccos in the cigar, potentially a large**  
24 **percentage of the tobaccos in the cigar which are made up**  
25 **of leaves which have a stronger flavor and presence in the**



1 mouth, potentially also aroma that would be stronger than  
2 if they were made with other kinds of tobacco.

3 For example, tobaccos from Connecticut or from  
4 Dominican Olor or other places.

5 BY MR. GOLDSTEIN:

6 Q Just for clarity, I'm distinguishing for  
7 purposes of that question between something identified as  
8 Piloto Cubano tobacco and something simply identified as  
9 Cuban seed tobacco.

10 MR. SANCHELIMA: I don't understand what you're  
11 saying. Is that a question?

12 MR. GOLDSTEIN: It is a question.

13 BY MR. GOLDSTEIN:

14 Q And I just tried to ask for clarification, if  
15 that makes a difference in your answer.

16 A In my answer?

17 Q Yes.

18 A No, it doesn't. The terms are in some cases  
19 used interchangeably.

20 Q Okay.

21 A And it is not -- having had hundreds and  
22 hundreds and hundreds of discussions about this issue with  
23 manufacturers and distributors, face to face, over the  
24 course of the last 15 years, there is a wide variety of  
25 expertise on the part of the manufacturers and

1     **distributors. Some know a lot about their cigars and some**  
2     **don't frankly know that much. And in many cases these**  
3     **terms are used interchangeably.**

4           Q     Of the questions that you were asked to provide  
5     your expertise on, the second question was, "What  
6     significance, if any, does the United States cigar  
7     industry attach to non-Cuban origin tobacco claimed to be  
8     grown from Cuban seeds or to cigars claimed to be made  
9     from Cuban seed tobacco"?

10           MR. SANCHELIMA: Objection. Form.

11           MR. GOLDSTEIN: I'm just simply asking if he recalls  
12     that that was one of the questions that he was asked to  
13     answer.

14           THE WITNESS: I recall the question.

15     BY MR. GOLDSTEIN:

16           Q     And what is your answer to that question?

17           MR. SANCHELIMA: Objection.

18           THE WITNESS: Is it okay to answer?

19           MR. GOLDSTEIN: Yes.

20           THE WITNESS: The question that you've asked, I  
21     answered it in the report, and continue to believe today  
22     that the U.S. cigar industry communicates to the consumer  
23     the strength or style of tobacco which is used in a cigar  
24     by identifying it as Piloto Cubano or by Cuban seed, but  
25     that it does not have necessarily, except by those who are

1 being somewhat unscrupulous in my view, any relationship  
2 to Cuba itself.

3 BY MR. GOLDSTEIN:

4 Q When you say "unscrupulous," what are you  
5 referring to?

6 A If a manufacturer or distributor is trying to  
7 create an impression in the minds of consumers that  
8 somehow the tobacco which is being used and is being  
9 called Cuban seed has a close tie or a close nexus to  
10 tobacco which is grown in Cuba and is used in the  
11 production of Cuban cigars, that would be false.

12 MR. SANCHELIMA: I have a standing objection on  
13 anything that has to do with consumer perception from this  
14 witness that qualifies as an expert in that area.

15 BY MR. GOLDSTEIN:

16 Q Does the use of the term "Cuban seed tobacco"  
17 provide retailers or consumers with any useful information  
18 regarding any relationship between those cigars and cigars  
19 that originate in Cuba?

20 MR. SANCHELIMA: In addition to the previous  
21 objections, also form.

22 BY MR. GOLDSTEIN:

23 Q You can answer.

24 A My answer would be no.

25 Q Are you aware of marketing parallels in the

1 United States to the use of Cuban seed tobacco?

2 **A I'm not sure I understand the question.**

3 **Q** Okay. Other marketing efforts in the United  
4 States that use a point of origin of tobacco, using that  
5 name for tobacco that comes from another place?

6 **A If I understand your question correctly, yes, I**  
7 **am aware.**

8 **Q** Okay. And what is that?

9 **A There is a very highly prized type of wrapper**  
10 **leaf called Connecticut shade, and this kind of tobacco is**  
11 **very popular and is widely known as a preferred style of**  
12 **wrapper tobacco. However, an enormous amount of this**  
13 **style of tobacco is grown in Ecuador, as well as in other**  
14 **countries. But especially in Ecuador. And so you have**  
15 **Connecticut shade leaf which actually comes from**  
16 **Connecticut, but you also have an enormous amount of**  
17 **Connecticut seed leaf which comes from Ecuador.**

18 **Q** But it's not from Connecticut?

19 **A But it is not from Connecticut. And we identify**  
20 **in our book that it is not Connecticut leaf, but in fact**  
21 **it is Connecticut seed leaf, and this would indicate the**  
22 **style and heft and presence in the mouth that can be**  
23 **expected from that kind of leaf, not that it is from**  
24 **Connecticut. And we ask this question very specifically**  
25 **of all of our manufacturers and distributors who provide**

1     **information for this book.**

2           Q     Is it your understanding from being involved in  
3     the industry what are some of the important factors in  
4     terms of the quality and characteristics of tobacco, in  
5     terms of how, where it's grown, things like that?

6           MR. SANCHELIMA:  Objection.  And also vague.

7           MR. GOLDSTEIN:  Let me rephrase the question.

8     BY MR. GOLDSTEIN:

9           Q     Are you aware of the factors in the growth of  
10    tobacco that are widely considered within the industry  
11    important in terms of the quality and characteristics of  
12    the tobacco that's grown?

13          MR. SANCHELIMA:  Objection.  Improper foundation.

14          THE WITNESS:  Should I go ahead and answer?

15          MR. GOLDSTEIN:  Yes, please.

16          THE WITNESS:  Manufacturers and distributors, and  
17    especially those manufacturers who grow their own tobacco,  
18    have taken great pains with me to educate me about the  
19    ways that they develop tobaccos and the way that they grow  
20    tobacco and then cure and age tobacco before it becomes  
21    blended.

22                 And there are many, many factors that go into it  
23    because this is an agricultural product.  So tobacco is  
24    going to be different based on when during the year it is  
25    grown, where it is grown, how it is grown, meaning how the

1 height of the plant is managed, and when the harvesting is  
2 done. All of these and many other items go into how the  
3 tobacco is shaped in terms of its taste, pliability and  
4 use in cigars.

5 BY MR. GOLDSTEIN:

6 Q Do you recall that you were asked a third  
7 question, which was -- do you recall that you were asked  
8 to answer a third question as part of your expert report,  
9 and that question was, "Does Cuban seed tobacco generally,  
10 or tobacco grown from Cuban seed as claimed by applicant  
11 in its interrogatory response, have any association or  
12 connection with Havana, Cuba, or Cuba, and if so, what is  
13 that association or connection?"

14 MR. SANCHELIMA: Form.

15 BY MR. GOLDSTEIN:

16 Q Do you recall that being one of the questions  
17 you were asked to answer?

18 A Yes, I do.

19 MR. SANCHELIMA: Form.

20 BY MR. GOLDSTEIN:

21 Q Is there any association or connection with  
22 Havana, Cuba or Cuba?

23 MR. SANCHELIMA: Objection.

24 BY MR. GOLDSTEIN:

25 Q Of Cuban seed tobacco generally or tobacco grown

1 from Cuban seed that is distant descendent from seeds  
2 claimed to be taken from Cuba?

3       **A     In my opinion and to my knowledge there is no**  
4 **relationship between Cuban seed tobaccos and the city of**  
5 **Havana, Cuba, the Cuban cigar industry or Cuban tobacco**  
6 **except potential and unprovable relationship that goes**  
7 **back many, many, many generations and dozens of years. As**  
8 **a matter of fact, it would be more than 40 years.**

9       **Q     And in your opinion, by calling your cigars**  
10 **Cuban seed tobacco, does that indicate a connection or**  
11 **similarity to Cuban cigars or Cuban tobacco, in terms of**  
12 **taste or aroma?**

13       **MR. SANCHELIMA: Objection.**

14       **THE WITNESS: Shall I go ahead and answer?**

15       **MR. GOLDSTEIN: Yes, please.**

16       **THE WITNESS: Okay. A manufacturer/distributor who**  
17 **promotes the fact that it has what it believes as Cuban**  
18 **seed tobaccos in its cigars may be trying to imply some**  
19 **sort of relationship or nexus to Cuba or the Cuban cigar**  
20 **industry, but there really is none.**

21 **BY MR. GOLDSTEIN:**

22       **Q     Why, in your opinion, do U.S. cigar distributors**  
23 **or manufacturers want consumers to associate their**  
24 **non-Cuban cigars with Cuba and Cuban cigars?**

25       **MR. SANCHELIMA: Same objection.**

1           THE WITNESS: Cuba is the historic heart of the cigar  
2 industry, going all the way back to the 1600s, production  
3 of cigars was headquartered in Havana after the decree of  
4 the Spanish crown, which allowed production of cigars for  
5 commercial use.

6           So there is a long, long, long history of the  
7 production of cigar tobacco and the production of actual  
8 cigars in Cuba, and that history and romance, if you will,  
9 is what is being attached by manufacturers and  
10 distributors who use terms like "Cuban seed."

11 BY MR. GOLDSTEIN:

12           Q     If you would look on page 10 of your expert  
13 report, the page that has your signature.

14           A     Okay.

15           Q     And it's the continuation of paragraph 23, which  
16 starts on page 9.

17           A     Yes.

18           Q     There's a reference at the end of the paragraph  
19 to an article from Cigar Magazine annexed hereto as  
20 Exhibit 3. Do you see that?

21           A     I see the language, yes.

22           MR. GOLDSTEIN: First, let me clarify on the record  
23 that where it says "Exhibit 3," it should say "Exhibit 4,"  
24 because there's already an Exhibit 3 in the report, which  
25 we've identified which was excerpts from the 2006 Perelman



1 Pocket Cyclopedia. I want to make that clarification.

2 And second, in my copy, and probably in all  
3 copies, this article was not attached. So I want to  
4 identify that article, since I don't think it was ever  
5 attached. And that was my office's mistake.

6 So if I could ask the reporter to find the  
7 document that says "Boomtime Memoirs," which at the bottom  
8 it says, "Cigar Magazine," and has a Bates number, and if  
9 you could mark that as Perelman Exhibit 3 for  
10 identification of this deposition.

11 (Deposition Exhibit 3 was marked for  
12 identification by the court reporter.)

13 THE WITNESS: Okay, the reporter has handed it to me.  
14 I have it in my possession.

15 MR. SANCHELIMA: This Exhibit 4, the exhibit that  
16 would have been 4 in his declaration is actually a  
17 separate exhibit that you're now producing for the first  
18 time. And was that one of the documents that you sent me?

19 MR. GOLDSTEIN: Yes, it's one of the documents in the  
20 e-mail. It's not being produced for the first time. It's  
21 produced as HAB00576 through 581 by us, and was not  
22 attached to his declaration, even though it should have  
23 been.

24 MR. SANCHELIMA: Okay. But --

25 MR. GOLDSTEIN: We're not marking it as part of the

1 expert report. We're marking it as Perelman Exhibit 3.

2 MR. SANCHELIMA: Okay. So it's going to be a  
3 separate exhibit.

4 MR. GOLDSTEIN: Yes.

5 MR. SANCHELIMA: Hold on. I have a document called  
6 "Boomtime Memoirs."

7 MR. GOLDSTEIN: That's it.

8 MR. SANCHELIMA: That's Exhibit 3 for this  
9 deposition. Okay.

10 BY MR. GOLDSTEIN:

11 Q Are you looking at that?

12 A Yes, I see it.

13 Q In the bottom it shows it's from Cigar Magazine,  
14 Summer 2006. Do you see that?

15 A Yes.

16 Q Are you familiar with this article?

17 A Yes. It was a hoot.

18 Q Is it the article that's being referred to in  
19 your expert report?

20 A Yes.

21 MR. GOLDSTEIN: And opposer offers Perelman Exhibit 3  
22 in evidence.

23 BY MR. GOLDSTEIN:

24 Q And if you would turn to page 81 of the article,  
25 which also has the production numbers HAB00580.

1           **A     Right.**

2           Q     And it's sort of the pull out, I don't know if  
3 journalism has a word for that?

4           **A     It's called a pull quote.**

5           Q     I knew it was "pull" something. What is the  
6 article talking about, first of all?

7           **A     This particular article is by an author named**  
8 **Tom Zarzecki, who is a terrific writer and tremendously**  
9 **funny, especially with sarcasm. And this is a sarcastic**  
10 **look at the many strange brands which came onto the U.S.**  
11 **market during the period that was known as the cigar boom**  
12 **during the middle and late part of the 1990s.**

13          Q     And what does the pull quote say?

14          **A     The pull quote says, "The advertisements for**  
15 **these Boom brands sure made a lot of lofty claims; every**  
16 **last one was made from, quote, 'choice Cuban seed,'**  
17 **unquote. Yeah, so was Ricky Ricardo."**

18          Q     And you quote that language at the end of your  
19 expert report on paragraph 23 as, in your words, summing  
20 up the Cuban cigar marketing phenomenon in the United  
21 States.

22          **A     Yes.**

23          Q     What did you mean by that?

24          **A     The use of the term "Cuban seed," if it is used**  
25 **to try and convince consumers, which was certainly the**

1 case during the cigar boom and is regrettably still the  
2 case in some instances today, that the cigars that are  
3 produced with a style of tobacco somehow are similar in  
4 some way, other than they're both cigars, to those cigars  
5 produced in Cuba, it's not a correct association.

6 MR. SANCHELIMA: Same objection.

7 BY MR. GOLDSTEIN:

8 Q And Ricky Ricardo, you understand, is referring  
9 to whom?

10 A To Ricky Ricardo, who was the Cuban-born actor  
11 who starred in the Lucy Show -- in I love Lucy, I'm sorry,  
12 and was married to Lucille Ball.

13 MR. SANCHELIMA: Same objection. And also it's  
14 irrelevant.

15 MR. GOLDSTEIN: I have no further questions subject  
16 to any redirect.

17 MR. SANCHELIMA: I need a couple minutes.

18 MR. GOLDSTEIN: Okay.

19

20 EXAMINATION

21 BY MR. SANCHELIMA:

22 Q Mr. Perelman, the company that you work for, is  
23 it exclusively dedicated to cigar, reporting of cigar  
24 events and so forth or does it do something else?

25 A No, as I mentioned in my previous answer, we

1 work on special events and have done so since 1986, and we  
2 also run our CigarCyclopedia.com website and publish these  
3 books. As I indicated, at present we're spending about 60  
4 to 70 percent of our time on the cigar website and on the  
5 production of our new book.

6 Q What is the other 40 percent spent on?

7 A The other time that we spend is based on special  
8 event work, which right now we're deemphasizing. We also  
9 run a website called the SportsExaminer.com. And we are  
10 now beginning the production of a daily ten-minute  
11 audiocast on sports, which is going to be placed on a  
12 website called TheGoodSports.TV.

13 Q So the other 40 percent is completely unrelated  
14 to cigar?

15 A That's correct.

16 Q When were you retained by, I believe, Habanos,  
17 S.A.?

18 A I think the first call came in early 2006.

19 Q Did you provide Habanos, S.A. with a report at  
20 that time?

21 A Not in early 2006. In the middle of 2006 I was  
22 given a list of questions, and I provided a report to  
23 them.

24 Q As part of the work that you did for Habanos,  
25 S.A., did you conduct any surveys?

1           **A     No.**

2           Q     Have you ever conducted any surveys?

3           **A     I don't understand the question. A survey for**  
4 **what purpose?**

5           Q     Well, let's say for consumer surveys.

6           **A     No, we have not done consumer surveys.**

7           Q     Does Habanos, S.A. advertise in any of your  
8 publications?

9           **A     Not that I'm aware of.**

10          Q     Do you know if Habanos, S.A. sells any products  
11 in the United States?

12          **A     I'm not aware that they do.**

13          Q     What would be the damages for Habanos, S.A. if  
14 the applicant registered its mark?

15          MR. GOLDSTEIN: Objection to the question.  
16 Irrelevant. There's no claim for damages and the TKB  
17 can't award them.

18          THE WITNESS: Should I answer?

19          MR. GOLDSTEIN: Yes. And it calls for a legal  
20 conclusion. But you can answer.

21          THE WITNESS: As I understand it, the applicant is  
22 trying to register the name "Havana Club"?

23          BY MR. SANCHELIMA:

24          Q     I don't know. You were hired as an expert. You  
25 tell me.

1           **A**     Well, my understanding is, based on the  
2     information that's been provided to me, that the applicant  
3     is trying to register the name "Havana Club," which is a  
4     very, very famous, currently produced rum that is made in  
5     Cuba. And in my view, the registration of this name could  
6     be potentially confusing to consumers of cigars that this  
7     particular cigar, Havana Club, could have some more  
8     relationship to Cuba than something named Havana Dreams or  
9     Havana Wonder or something like that, because it is also  
10    the name of a very well-known rum, which is currently  
11    produced in Cuba and is widely known worldwide.

12           **Q**     Let me ask the question again because maybe you  
13    didn't understand. I am not asking you any questions  
14    pertaining to Cuba or pertaining to the producer of the  
15    Havana rum. I am asking you what damages do you think  
16    that the opposer, Habanos, S.A., would suffer from the  
17    registration of the mark "Havana Club"?

18           **A**     Confusion in the marketplace --

19           MR. GOLDSTEIN: Same objection. Including objection  
20    that it calls for a legal conclusion. It doesn't matter  
21    what he thinks our damages are.

22           THE WITNESS: My answer is the same. Confusion in  
23    the marketplace.

24           BY MR. SANCHELIMA:

25           **Q**     Confusion with Habanos products? Is that what

1     you're saying?

2           **A     Yes.**

3           Q     But you've previously testified that Habanos,  
4     S.A. is not using the mark or selling any products in the  
5     United States; is that correct?

6           **A     Yes, that's correct.**

7           Q     And how could it be confused in a market where  
8     it has no presence?

9           MR. GOLDSTEIN:  Objection to the form.  Calls for a  
10    legal conclusion.  These are legal questions that are  
11    before the board.  Completely irrelevant to this witness.

12          THE WITNESS:  Should I answer?

13          MR. GOLDSTEIN:  Yes.

14    BY MR. SANCHELIMA:

15          Q     Mr. Perelman, the objections are just to voice  
16    counsel's position with the questions that have been posed  
17    to you.  But you should answer all the questions.

18          **A     I want to make sure that everyone has stated**  
19    **there objections so I don't talk over anybody.**

20          MR. GOLDSTEIN:  Just for clarity, Richard, unless you  
21    get an instruction not to answer, and I don't think you'll  
22    get one, when we're done objecting, you should just go  
23    ahead and answer.

24          THE WITNESS:  I'm just waiting for everyone to be  
25    done so that there isn't any confusion.



1 MR. GOLDSTEIN: I understand because you can't see  
2 us.

3 THE WITNESS: Exactly.

4 Mr. Sanchelima, my answer to your question would  
5 be that you're making an assumption that this brand would  
6 only be sold in the United States and would never leave  
7 the borders of this country. And in point of fact, there  
8 are very significant number of cigars which are produced  
9 for the United States market which are also sold widely  
10 overseas, and in other markets.

11 BY MR. SANCHELIMA:

12 Q So what is the answer to the question? What  
13 specific damages can you point to at this point, from  
14 everything that you've read and all the conversations that  
15 you've had with the representatives of Habanos, S.A., that  
16 would indicate to you that Habanos, S.A. would be damaged  
17 by the registration of the Havana Club mark?

18 MR. GOLDSTEIN: Same set of objections.

19 THE WITNESS: My answer is that it could potentially  
20 create confusion in the marketplace.

21 BY MR. SANCHELIMA:

22 Q Other than that?

23 A Other than that, I don't have any other opinion.

24 Q Do you know if Habanos, S.A. produces rum?

25 A I'm not aware that they do, but it does not

1     **necessarily mean that they don't. I am not aware of it.**

2           Q     You mentioned that you gathered information from  
3     manufacturers and distributors and growers of tobacco  
4     products; is that correct?

5           A     **That's correct.**

6           Q     These manufacturers, and possibly distributors,  
7     control the blends of the cigars; is that correct?

8           A     **In some cases yes, in some cases no.**

9           Q     And when they report to you those who control  
10    the -- I withdraw that.

11                   In what cases do they control the blends?

12          A     **Generally, those who are manufacturers or are**  
13    **distributors who have a very, very close relationship with**  
14    **the manufacturers are in a position to control their**  
15    **blends with great precision. However, there are numerous**  
16    **smaller distributors who are not in a position to control**  
17    **their blend as closely as they would like, and they're**  
18    **simply depending on the maker to supply them with cigars**  
19    **to their specifications.**

20          Q     But they cannot control the nature or quality of  
21    those products that they receive. Is that what you're  
22    saying?

23          A     **I'm saying that they do not, in fact, control**  
24    **it. They could control it if they wished to do so and if**  
25    **they had the manpower and financial ability to place one**

1     **or more of there representatives at the place of**  
2     **manufacture.**

3           Q     So those who report to you the particular  
4     countries where the tobacco was grown, it is possible that  
5     the information you're getting is not accurate. Is that  
6     correct?

7           A     **That is a possibility.**

8           Q     There is nothing that would prevent a particular  
9     manufacturer from using tobacco from a particular country,  
10    let's say Nicaragua, and then the next month change it to  
11    Honduras?

12          A     **Yes, that is certainly a possibility.**

13          Q     And they could be reporting to you that they're  
14    getting the product from one country when, in fact, a few  
15    days later they could change it, and they don't have to  
16    ask you for permission or there is no duty for them to  
17    report to you before you go to print, that they have  
18    changed the country where those tobacco products are  
19    grown?

20          A     **Yes, that is correct.**

21          Q     Have you grown tobacco?

22          A     **Myself?**

23          Q     Yes.

24          A     **No.**

25          Q     And you would agree with me that smoking

1 tobacco, there is an element of subjective taste for each  
2 individual, wouldn't you?

3 **A Yes. Everyone's test is individual.**

4 Q You would probably like Maduros and somebody  
5 else would like a lighter cigar and so forth?

6 **A Yes, that's certainly true.**

7 Q And also you could say the same thing about  
8 strength of the cigar?

9 **A Yes, that's true.**

10 MR. GOLDSTEIN: Form.

11 BY MR. SANCHELIMA:

12 Q And Cuban cigars, or Cuban seed cigars, or  
13 cigars that were grown in Cuba, are not always the  
14 strongest cigars; is that correct?

15 **A That's correct.**

16 Q You also mentioned that the Connecticut wrapper  
17 is sometimes grown in Ecuador, I believe you said?

18 **A I said that there is Connecticut seed tobacco,  
19 which is grown in Ecuador.**

20 Q And when the manufacturers or distributors  
21 advertise tobacco products that have Connecticut wrappers  
22 that are grown in Ecuador, how do they describe their  
23 cigars?

24 MR. GOLDSTEIN: Objection to the form.

25 THE WITNESS: I believe in general -- and this is not

1 true for every single case -- but in general the reference  
2 would be to Connecticut seed tobacco, although in some  
3 cases the manufacturers -- I have seen manufacturers that  
4 simply say it's Connecticut wrapper, even though it's not  
5 grown in Connecticut, which means they're saying something  
6 which is not true.

7 BY MR. SANCHELIMA:

8 Q And how about for the Cameroon wrapper -- I'm  
9 asking if you would have the same opinion if we were  
10 talking about a Cameroon wrapper?

11 A Cameroon wrapper has only recently been  
12 attempted to be grown in other countries, within the last  
13 two years, I believe.

14 Prior to that time if someone told us that a  
15 wrapper, or if they advertised that a cigar leaf came from  
16 Cameroon, it almost certainly did come from Cameroon  
17 because it has such unique growing characteristics there.

18 Q But that cigar would be a style cigar more than  
19 a particular test, wouldn't it?

20 A Cameroon wrappers create a different kind of  
21 texture in the smoking of the cigar, more so than the  
22 flavor. It's quite unique relative to the texture that it  
23 gives and the aroma.

24 Q And would you call that a style cigar?

25 A I would call that a style of tobacco.

1           Q     Style of tobacco. That's what I meant.

2                     And the same thing with Connecticut style.

3           A     It's a style of leaf. The way that the cigar  
4 tastes and the way that it has a presence in the mouth is  
5 going to depend on the blend of tobaccos which are used.

6           Q     But you as a smoker since 1989, you would  
7 suspect, you would have a particular expectation from that  
8 particular cigar because of the type of wrapper that  
9 you're going to be getting. Would you not agree with that  
10 statement?

11          A     I would say that I would have an expectation of  
12 elements that I would expect in that cigar because the  
13 wrapper is one of perhaps five, six, seven or eight leaves  
14 which is used.

15          Q     And if you were to smoke a cigar that comes from  
16 seeds that originated in Cuba, would you have also a  
17 particular expectation?

18          A     I want to be clear, Mr. Sanchelima. The way  
19 your question is phrased, you asked me if I would have a  
20 particular expectation if I was smoking a cigar made with  
21 tobacco from seeds from Cuba. Is that your question?

22          Q     Yes.

23          A     I would not. Because it doesn't mean anything.  
24 There are so many different kinds of tobacco which are  
25 grown in Cuba and have been grown over many, many years in

1 Cuba, that I as a long-time smoker and as someone who is  
2 deeply involved in the trade, I understand that there's  
3 all different kinds of tobaccos which are raised in Cuba.

4 So if someone told me that, "Here is a cigar  
5 that is made from tobacco whose seeds come from Cuba,"  
6 that wouldn't really tell me anything about what to  
7 expect.

8 Q So your testimony today is that magically once  
9 those seeds leave the territory of Cuba, whatever plants  
10 come from those seeds are going to be genetically  
11 different and they're going to be tasting different. Is  
12 that what you're saying?

13 MR. GOLDSTEIN: I'm going to object. There's no  
14 foundation that the seeds that your client is talking  
15 about came from Cuba. He's already testified he's talking  
16 about multi-generational descendents.

17 MR. SANCHELIMA: Make your objections brief, please.  
18 You don't need to coach the witness.

19 MR. GOLDSTEIN: I'm not coaching the witness.

20 MR. SANCHELIMA: Nobody has discussed my client's  
21 seeds. My client's seeds are not even around yet.

22 MR. GOLDSTEIN: Your client's testimony is your  
23 client's testimony under oath.

24 MR. SANCHELIMA: You don't need to coach this witness  
25 and tell him -- just place your objection and let's move

1 on.

2 MR. GOLDSTEIN: I've raised my objection.

3 MR. SANCHELIMA: But it doesn't have to be a speaking  
4 objection where you convey information to this witness. I  
5 am in cross-examination.

6 MR. GOLDSTEIN: Ask your question.

7 MR. SANCHELIMA: Would the court reporter ask the  
8 question, please.

9 (Record read as follows:

10 "So your testimony today is that  
11 magically once those seeds leave the  
12 territory of Cuba, whatever plants come  
13 from those seeds are going to be  
14 genetically different and they're going  
15 to be tasting different. Is that what  
16 you're saying?")

17 THE WITNESS: My answer is yes.

18 BY MR. GOLDSTEIN:

19 Q Could you explain why?

20 A Certainly. When you transport the seeds of any  
21 plant, tobacco or any other, this is a matter of eighth  
22 grade botany class, to a different location where the soil  
23 is different, and the nutrients are different and the  
24 style of farming is different, and the sun and the moon  
25 and all the rest are in a different location, it's going



1 to impact the taste of the fruit or vegetable matter that  
2 comes from that plant.

3 This is clearly true, for example, in the  
4 difference, as a voracious consumer of oranges, between  
5 oranges which are grown here in California, those grown in  
6 Florida, and those grown in other places. The taste is  
7 different even though they're all Oranges.

8 Q So your testimony today is that if you were to  
9 smoke two different cigars, one that was grown in Cuba,  
10 and the other one of identical seeds that was grown  
11 somewhere else, you would taste the difference. Is that  
12 your testimony?

13 A I am saying that if the cigars were produced  
14 identically -- remember that there are many steps in  
15 between the growing of the tobacco and the creation of a  
16 cigar. If we assume that the production, the harvesting,  
17 the curing, the blending and the manufacture of the cigars  
18 was absolutely identical, I believe I would be able to  
19 taste the difference between the two cigars, that's  
20 correct.

21 Q Have you ever conducted that experiment?

22 A No, because so far as I know, it's impossible to  
23 do so.

24 Q Your client, Habanos, S.A., asked you to make a  
25 couple of assumptions in your report. As I remember --

1 and correct me if I'm wrong -- one of them was that the  
2 cigars would come from the distant past, I believe you  
3 termed it. Could you tell us what you meant by "distant  
4 past"?

5 MR. GOLDSTEIN: Objection to the form.

6 BY MR. SANCHELIMA:

7 Q Do you understand the question, Mr. Perelman?

8 A I believe I do, Mr. Sanchelima. I will try to  
9 answer it to the best of my ability.

10 Q If you don't understand something that I ask,  
11 please bring it to my attention so that I can clarify.

12 A Okay. If I understand the question correctly,  
13 you're asking me why would I agree to answer -- why would  
14 I agree to the assumption that the seeds are from the  
15 distant past?

16 Q Let's do it differently. What were the  
17 assumptions that you were asked to make, that the client  
18 asked you to make?

19 A They provided an assumption that the cigar to be  
20 called "Havana Club" would be made with so-called Cuban  
21 seed tobaccos, and that these tobaccos would have been  
22 grown from seeds that would have come from Cuba many,  
23 many, many years ago.

24 Q Now, this many, many years ago that you're  
25 referring to, are you referring to 40 years ago, when the

1 embargo was instituted and it was no longer legal to  
2 import Cuban goods to the United States? Is that what  
3 you're referring to?

4 **A Yes, that's correct.**

5 Q So that would take us to about 50 years ago,  
6 1960 or '62?

7 **A Between '60 and '62, you are correct.**

8 Q Now, this embargo applies to the United States;  
9 is that correct?

10 **A That's correct.**

11 Q But it does not apply to other countries such as  
12 Nicaragua, Honduras and other tobacco-producing countries;  
13 is that correct?

14 **A That's correct.**

15 Q And you have really no evidence of any  
16 obstruction that growers from those countries would have  
17 in importing seeds after the so-called embargo here in the  
18 United States, do you?

19 **A I have no personal knowledge.**

20 Q The importers or manufacturers or tobacco  
21 growers in Nicaragua, Honduras, and so forth, they can  
22 freely, without violating their local laws, import tobacco  
23 seeds, even today; is that correct?

24 MR. GOLDSTEIN: Objection. It calls for a legal  
25 conclusion as to foreign law, as well as legal conclusion

1 of the consequences of the United States law.

2 THE WITNESS: My understanding is that growers in  
3 other countries can import Cuban products without any  
4 impingement from the United States. But I am not aware of  
5 any individual circumstance because I am not -- it's not a  
6 subject I've ever discussed with a grower.

7 BY MR. SANCHELIMA:

8 Q In your conversations with your client, Habanos,  
9 S.A., have they told you that they have never exported any  
10 seeds to any countries?

11 A It was never discussed.

12 Q You were in Cuba in the '90s; is that correct?

13 A 1997 and 1998.

14 Q And you were under a specific license, I believe  
15 you said. Was that a specific license?

16 A Yes. I was given a license for journalistic  
17 purposes by the Office of Foreign Assets Control.

18 Q And you published the results or disseminated  
19 the findings that you drew after that?

20 A Well, I used some of the information that I  
21 obtained in Cuba in the publication of our first two  
22 editions of the Pocket Cyclopedia of Havana Cigars.

23 Q In your investigation did you speak to any  
24 growers in Cuba?

25 A Yes, I did.

1           Q     And do you know if Cuba exports its seeds of  
2 tobacco plants?

3           A     If I believe the information that I was given by  
4 the senior executives of the Cuban tobacco industry who  
5 addressed a forum that I attended, they said no. The  
6 farmers that I spoke with, I never discussed the issue  
7 with them because I was interested in what they were  
8 growing.

9           Q     Mr. Perelman, if you were to assume that you're  
10 a distributor or manufacturer of cigars, and if you were  
11 to tell a retailer that you have a lot of Cuban cigars,  
12 would they believe you?

13          A     That I had a lot, meaning a large quantity or --

14          Q     A lot for sale that you want to sell to them, of  
15 Cuban cigars, do you think that they would believe you?

16          A     The ones who are unsophisticated might. Any  
17 retailer who is reasonably sophisticated I think would not  
18 believe me.

19               MR. SANCHELIMA: I have no further questions.

20               MR. GOLDSTEIN: I might just have one or two.

21

22                               FURTHER EXAMINATION

23 BY MR. GOLDSTEIN:

24           Q     Mr. Sanchelima asked you a question concerning  
25 whether a manufacturer might say to you that the cigar's

1 tobacco originates from one place, but in fact it might  
2 originate from some place else, and you would have no way  
3 of knowing whether that was true or false; is that  
4 correct?

5 **A That's correct.**

6 Q And there's nothing that prevents a distributor  
7 from telling you for purposes of your book that they use  
8 what's called Cuban seed tobacco when, in fact, they  
9 don't, and there would be no way for you to know whether  
10 that was true or false?

11 **A There would be no way for me to know, that's**  
12 **correct.**

13 MR. GOLDSTEIN: I have no further questions.

14 MR. SANCHELIMA: That's it with me.

15 MR. GOLDSTEIN: Okay. Jay, thank you.

16 We're going to read and sign. And I guess we'll  
17 talk Tuesday.

18 THE REPORTER: Mr. Sanchelima, do you need a copy?

19 MR. SANCHELIMA: They'll give me one eventually.

20 MR. GOLDSTEIN: I think I have to give them one  
21 unfortunately, which means I'll have to pay for one.

22 (Deposition concluded at 12:01 p.m.)

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I, RICHARD B. PERELMAN, do hereby declare under  
penalty of perjury that I have read the foregoing  
transcript; that I have made any corrections as appear  
noted, in ink, initialed by me; that my testimony as  
contained herein, as corrected, is true and correct.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_,  
2007, at \_\_\_\_\_, \_\_\_\_\_.

(City) (State)

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RICHARD B. PERELMAN

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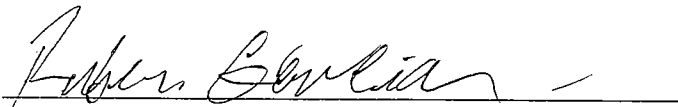
I, the undersigned, a Certified Shorthand  
Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before  
me at the time and place herein set forth; that any  
witnesses in the foregoing proceedings, prior to  
testifying, were placed under oath; that a verbatim record  
of the proceedings was made by me using machine shorthand  
which was thereafter transcribed under my direction;  
further, that the foregoing is an accurate transcription  
thereof.

I further certify that I am neither financially  
interested in the action nor a relative or employee of any  
attorney or of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed  
my name.

Dated: 9-17-07



RUBEN GARCIA

CSR No. 11305



# EXHIBITS

Deposition of

**RICHARD B. PERELMAN**

Taken on  
**AUGUST 31, 2007**



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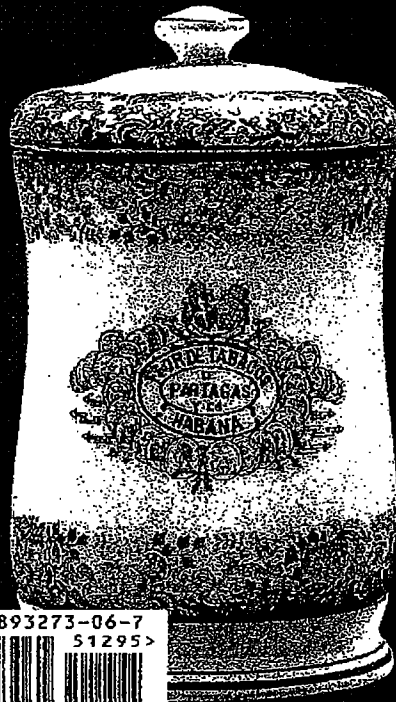
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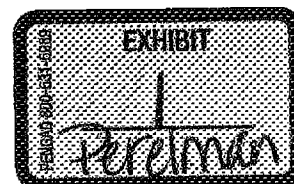
*Perelman's  
Pocket Cyclopedia of  
Havana Cigars  
Third Edition*



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9 781893 273061



## Havana Cigars at a Glance

<i>Mild-bodied (5):</i>	
Made by hand:	Fonseca • Hoyo de Monterrey • Quai d'Orsay • Rafael Gonzalez
Machine-made:	Guantanamo
<i>Mild-to-medium (6):</i>	
Made by hand:	El Rey del Mundo • H. Upmann • Por Larraga • San Cristobal
Machine-made:	Glaspot • H. Upmann • Por Larraga • Troya
<i>Medium-bodied (8):</i>	
Made by hand:	Flor de Cano • La Gloria Cubana • Punch • Quintero
	• Romeo y Julieta • Sancho Panza • Trinidad
Machine-made:	Belinda • Flor de Cano • Punch • Quintero
<i>Medium-to-full-bodied (9):</i>	
Made by hand:	Cohiba • Cuaba • Diplomaticos • Jose L. Piedra • Juan Lopez
	• Montecristo • Vegas Robaina
Machine-made:	Los Santos de Luxe
<i>Full-bodied (6):</i>	
Made by hand:	Bolivar • Partagas • Ramon Allones • Saint Luis Rey • Vegueros
Machine-made:	Bolivar • Cabañas • Partagas • Ramon Allones
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Habanos Collection:	Cuaba (2001) • Hoyo de Monterrey (2003) • Partagas (2002) • Romeo y Julieta (2004)
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# Perelman's Pocket Cyclopedia of Havana Cigars Third Edition

Compiled by  
**Richard B. Perelman**

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COMPANY**

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*On the cover:*

A Partagas "Sevilla Humijar" made prior to and after nationalization, originally holding 25 cigars and highly collectible today. Photography by Long Photography (Los Angeles, California).

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**Perelman's  
Pocket Cyclopedia  
of Havana Cigars**

*Third Edition*

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Authoritative, daily coverage of  
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## INTRODUCTION

It's been seven years since we completed the second edition of our *Perelman's Pocket Cyclopedia of Havana Cigars* and we were more than due for an update. The world of Havana cigars has become much more dynamic since the turn of the century and especially with the new energies brought by Altadis since its acquisition of a half-interest in Habanos S.A. in 2000.

Now, we see the same rush of new products and ideas as we see in the U.S. market as covered by our *Perelman's Pocket Cyclopedia of Cigars*.

So we have completely revised our third edition to resemble, more closely, our compendium for the American market:

- Brand listings identify individual cigars by their shape group rather than by factory codes or sizes. We have grouped the 96 current-production sizes into the familiar 18 size groups we use in our *Pocket Cyclopedia of Cigars*, adapted from Paul Garnier's list in *The Gourmet Guide to Cigars*.
- We have added extensive notes for each brand, describing in detail the myriad of limited-edition, special-production and other kinds of cigars produced under each brand during the explosion of special products since 2000.
- We added a short almanac of the biggest-smallest-thickest-fattest cigars in section 2.

In addition, readers will find brands and factory sizes completely cross-referenced in our reformatted coverage of

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## INTRODUCTION

factory production, also in section 2. We also include lengthy recaps of collectible packaging – especially jars – and special production models.

However, we're not perfect. Sharp-eyed readers will zero in on seeming inconsistencies between historical lists of brands and sizes that we present here. Fortunately, our information is taken directly from Cuban trade catalogs. Unfortunately, some of this information is contradictory, unreconciled and is possibly wrong. But it is official and therefore given credence unless we know for certain that it is incorrect.

We did have the advantage, in compiling this edition, of three fabulous publications which helped us enormously. The most interesting was an actual price list of Cuban cigars with an effective date of January 1, 1959, the day that Revolutionary forces overthrew the existing government of Cuba. The roster of 140 brands actually for sale in that last pre-nationalization price list are included in section 4.

Equally fascinating is the impressive snapshot of the Cuban production roster in 2003 as chronicled in *The Complete Guide For Habanos' Enthusiasts*, produced by Habanos S.A. In coordination with Hunters & Frankau of London. This four-ring binder has leaflets illustrating every Havana brand and was an invaluable resource.

Then, of course, there is the massive *An Illustrated Encyclopedia of Post-Revolution Havana Cigars* by Hong Kong collector Min Ron Nee, working in coordination with former Habanos executive Adriano Martinez. The latter's access to Cuban factory files makes this book a repository of information simply not available anywhere else.

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## INTRODUCTION

I am often asked, "Are Havana cigars better than all others?" My answer is simple: "They are different." Just as it is hard to compare a Rolls-Royce automobile with a Lamborghini or a Lexus, it is difficult to make a direct comparison between Havana cigars and those of other nations. Both can be excellent and satisfying, but this is one instance where the advertising slogan is correct:

"*Unicos desde 1492* - Unique since 1492"

Havana cigars are truly unique . . . but the proof is in the smoking. Enjoy!

In the preparation of this third edition, I want to acknowledge the essential assistance of our marketing director Pat Harris, the always-helpful Simon Chase of Hunters & Frankau in London and friends Kent Chung from Cigar Time (Hong Kong), J.J. Kaplan and Bruce Tenen for providing photographs.

We enjoyed putting this edition together and we are looking for even more information with which to entertain you in a fourth edition. If you have suggestions on how we can make this book better, we would be pleased to hear from you; visit us at [www.CigarCyclopedia.com](http://www.CigarCyclopedia.com) and use the "Contact Us" feature to let us know what you think!



RICHARD B. PERELMAN  
Los Angeles, California  
January 2003

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## FROM FARM TO FACTORY

its warranty – in four languages – of the quality of cigars exported from Havana and applied to all cigars manufactured for export after July 16, 1912. The current seal design dates from 1931.

Please note the different inscriptions applied to the bottom of each box, depending on the style of manufacture:

- ▶ Hand-made cigars inscribed "*Totalmente a mano*" meaning "totally by hand."
- ▶ Machine-bunched and hand-finished cigars, which were inscribed "*Hecho a mano*" meaning "made by hand."
- ▶ All-machine-made cigars are inscribed "*Hecho in Cuba*" meaning only "made in Cuba."

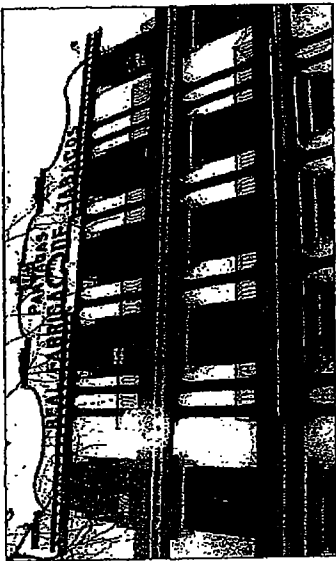
While there are small variations in the overall manufacturing process from brand to brand – a third fermentation of leaves for Cohiba, the use of aluminium tubes or cellophane for other brands, for example – the basic process remains the same. This ensures not only quality, but the tradition which is taken so seriously by the Cuban cigar industry and which links it to the centuries of cigar-making which have transpired on the island since the time of Columbus.

### 2.06 MYTHS, HISTORY AND FACTORY CODES

The history and romance of Havana cigars are very much tied up in the factories which produce them. For this reason, we offer here some basic information about these facilities, but with some caveats noted below.



## FROM FARM TO FACTORY



The one and only: the famed, elegant, landmark Paragas factory, at Calle Industria 320 opposite the Capitolio in the heart of La Vieja Habana. (Photographs courtesy Kent Chung/Cigar Time (top) and J.J. Kaplan (bottom).)

## FROM FARM TO FACTORY

Contrary to some reports, factories do not produce the same brands year after year. Although some factories have "home" brands which they will always produce — Cohiba at the El Laguito factory, Paragas at the Paragas factory and so on — the actual determination of which brands and sizes will be produced each year is made only after annual meetings of Habanos, S.A. and its distributors around the world. Once the production promises have been made, the factories are then assigned their quotas for brands and sizes.

The history of each factory is quite interesting, although details are often sketchy. One odd item is the relationship between the "Romeo y Julieta" factory (now called "Briones Montoto") and the "El Rey del Mundo" factory (now called "Carlos Balliño"). After some research, it became clear that the old headquarters of the El Rey del Mundo Cigar Co. at 852 Padre Varela is now, in fact, the "Romeo y Julieta/Briones Montoto" factory. The actual former headquarters of the Romeo y Julieta brand at 152 Padre Varela burned many years ago. Now, the two plants are located only one block apart from each other, with the El Rey del Mundo factory denoted by not so much as a sign for many years. The only word on the front of the building was "Polak," undoubtedly after the name of the previous owner.

Visitors to Cuba can strike out on their own "historic factory tour" if desired by consulting the addresses of manufacturers from the official list of Cuban makers in 1940 in section 4.

An enormous interest in which cigars were produced in which factories sprang up when Cupatábaco began applying coded stamps to the bottom of boxes produced in 1985. Two stamps were used: one designating the factory of origin and

## FROM FARM TO FACTORY

a situation which has not pleased either Habanos S.A. or the national distributors. Thus, a considerable effort has been made to keep factory codes secret, albeit with mixed results, as shown below. This table presents all 60 cigar factories known to have recent production, with pre-nationalization names and historic codes *where available*, compiled from a variety of sources. The 2003 codes are, at best, a guess.

Factory	Codes	1985-98	1998-99	2000-03	2003-
<i>City of Havana:</i>					
Briones Montoto ("Romeo y Julieta")		BM	EDC	PEL	KMM
Carlos Balño ("El Rey del Mundo")		QB	EGD	LOC	
El Laguito		EL	EUN	CLE	MKO
Francisco Perez Geman ("Paragas")		FPG	EAT	OSU	GKI
Heroes del Morcada		HM	ENI	RPO	
Jose Martí ("H. Upmann")		JM	ECA	ECA	LLN
Nueva Jose Martí ("Nueva H. Upmann")		—	—	—	LLN
Miguel Fernandez Roig ("La Corona")		FR	EOG	EAR	FRH
Juan Caño Sainz ("Por Larranaga")		FL	EEO	ARA	
<i>Cienfuegos Province:</i>					
Cienfuegos I ("Quintero y Hno.")		CFGS	OTC	Group Codes: EOP LAC SEL PUV	
Cienfuegos II		—	OAI		

### FROM FARM TO FACTORY

Factory	Codes -	1985-98	1998-99	2000-03	2003-
Cruces		—	OOG		
Cumanayagua		—	OET		
Lajas		—	OIN		
Granma Province:					
Bayamo		TTB	NAT	ACS	
Jiguani		—	NOC	PLO	
Holguin Province:					
Antillas		—	UNG	Group codes: IESC PUL UPA URE	
Gibara		—	UDI		
Holguin I		TTH	UAN		
Holguin II		—	UCE		
San Andres		—	UET		
La Habana Province:					
Artemisa I	Group of factories using the code TLP		TEN	Group codes: ALV CAV LPE PAR SCO SOL SSU VEL	
Artemisa II			TEC		
Bejuoal			TND		
Guines			TOU		
Guira I			TAE		
Guira II			TDC		
Quivicán			TIO		
San Antonio I			TCI		
San Antonio II			TNG		
San Antonio de las Vegas			TGT		
San Nicolas de Bari			TUD		
Santa Cruz del Norte			TTA		



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEALS BOARD**

In the matter of Trademark Application  
Serial No. 78/363024  
Filed February 5, 2004  
For the mark HAVANA CLUB  
Published in the *Official Gazette* on December 14, 2004

CORPORACION HABANOS, S.A.,	)	
	)	
Opposer,	)	Opposition No. 91165519
	)	
v.	)	
	)	
ANNCAS, INC.,	)	
	)	
Applicant.	)	
	)	

**DECLARATION OF RICHARD B. PERELMAN**

I, Richard B. Perelman, state as follows:

1. I am the founder and President of Perelman, Pioneer & Company, located in Los Angeles. I am a 1981 graduate of Loyola Law School in Los Angeles, and have been a Member of the California Bar since 1981, although I do not currently practice law. Since 1994, I have been the author of *Perelman's Pocket Cyclopedia of Cigars*, an annual publication which catalogs the more than 1,200 brands of handmade, machine-made and small cigars marketed nationally in the United States. A copy of my *curriculum vitae* is attached as Exhibit 1.
2. In addition to 12 editions of *Perelman's Pocket Cyclopedia of Cigars*, I have been the author of three editions of *Perelman's Pocket Cyclopedia of Havana Cigars*, published in 1997, 1998, and 2005, covering Cuban cigar production and Cuban cigar brands. In the development of this book, I have made two trips to Cuba under license from the Treasury Department of the



Perelman #2

United States, including visits to Cuban tobacco plantations.

3. Since mid-2004, I have been the editor-in-chief of CigarCyclopedia.com, the first web site to offer daily coverage of cigars, cigar brand news, accessories, issues and people in cigars and smoking. As of June 2006, this site was visited more than 90,000 times monthly.

4. I have also contributed numerous articles concerning cigars to publications including *CigarCafe* (an America Online-affiliated site), *Cigars & More*, *Cigar Lifestyles*, *Penthouse*, *Smoke* magazine, *Smokeshop* magazine (a trade publication), *The Cigar Monthly* and currently as a regular columnist for the *European Cigar-Cult Journal*, a quarterly published in Vienna, Austria in German and English.

5. Because of my heavy involvement on the information side of the United States cigar industry, I have spent thousands of hours speaking with industry representatives including cigar distributors, cigar manufacturers, cigar retailers, cigar rollers, tobacco growers and processors and others involved in the trade. Since the second edition of *Perelman's Pocket Cyclopedia of Cigars*, we have included the country of origin of the wrapper, binder and filler tobaccos of all handmade brands which we list in our book. In order to gather this information, I have spent a substantial amount of time discussing tobacco, its origins and processing with growers, cigar makers and cigar distributors, either in person or via telephone or electronic mail.

6. It must be noted that my *Pocket Cyclopedia of Cigars* is designed as an information source for consumers, so that they can obtain information provided by manufacturers and distributors. I do not personally vouch for the accuracy of any of the information contained in the book and this is stated clearly in the introduction to our listings of handmade, machine-made and small cigars:

"Each brand listing includes notes on country of manufacture, the origin of the tobaccos used, shapes, names, lengths, ring gauges, wrapper color and a brief description *as supplied by the manufacturers and/or distributors of these brands*." As an example, the descriptive information attached to the brand listing for Romeo y Julieta Vintage cigars states: "Made with perfectly fermented tobacco, the wrapper is selected for a natural, oily sheen and silky appearance. The binder is aged Mexican leaf and the filler is superbly blended Cuban seed and long-leaf Dominican tobaccos. Introduced in 1993, this is a finesse cigar, mild-to-medium in body with very round flavor and made in extremely limited supply." This information was provided by the distributor of the brand and was not independently verified by me, but was re-written for our format. It offers the reader information about the cigar that the manufacturer or distributor provides, either in written promotional materials or in response to questions asked by me in face-to-face conversations, telephonic conversations or by electronic mail.

7. I have not been, until this case, retained as an expert witness in any proceeding. I am not employed by any cigar company or any cigar magazine (as noted, I do write a quarterly column for the *European Cigar-Cult Journal*). The attorneys for Corporacion Habanos, S.A. have asked me to assist them, for which I am to be paid an hourly fee of \$300. In the course of this effort, I have been provided with, and have reviewed the following documents:

- The Notice of Opposition and the Answer and Counterclaim in this proceeding;
- Applicant's Response to Opposer's First Set of Interrogatories;
- Applicant's First Document Production, numbered 0001-0030;
- Excerpts of deposition or trial testimony given in *Empresa Cubana del Tabaco v. General Cigar Co., Inc.*, 97 Civ 8399 (S.D.N.Y.) concerning "Cuban seed" tobacco, by Oscar Boruchin, the owner of Mike's Cigars of Miami, Florida, one of the largest cigar retailers and distributors in the U.S.; Edgar Cullman, Jr., former CEO and President of

General Cigar, the second largest manufacturer and distributor of premium cigars in the U.S.; and Angel (Daniel) Nunez, then Executive Vice-President of Tobacco Operations, and now President of General Cigar (excerpts are annexed to my Declaration as Exhibit 2).

I have also been informed that Applicant has produced in discovery, among other documents, selected pages from the 2005 edition of *Perelman's Pocket Cyclopedia of Cigars*, specifically 55, 58, 60, 70, 80, 83-84, 90-92, 96-97, 105, 127, 132-33, 138-39, 147-48, 152, 168, 172-33, 188, 206, 214, 235, 252-53, 272-75, 288-89, 296-97, 306, 326, 372, 401, 404-05, 428, 448.

8. I have been asked by counsel for Habanos, S.A. to answer, to the best of my ability and in view of my experience as a close observer of the United States cigar industry, as well as my knowledge of the Cuban cigar industry, the following three questions:

*What does the term "Cuban seed tobacco" or "Cuban seeds" mean or refer to when used for tobacco or tobacco seeds that are not grown in Cuba?*

9. One might logically conclude that "Cuban seed" tobacco would refer to tobacco grown from the same seeds as used in Cuba to grow tobacco there. This is not the case. Such references are in fact generally used in the United States to refer to tobacco grown outside Cuba, which is of a strain which may (or may not) have originated, many generations previously, from seeds taken from Cuba either prior to or at the time of the nationalization of the tobacco industry by the Cuban (Revolutionary) government in or about 1960. It should be noted that there is no way for the distributor of finished cigars, or the consumer, to verify that such tobacco is descended from such seeds.

10. For purposes of providing my expert opinion, I have been asked to assume that the



Applicant here claims that its proposed HAVANA CLUB-labeled cigars will be made from tobacco grown outside Cuba from seeds that are many generations descended from seeds taken from Cuba in or about 1960. I have also been asked to assume that Applicant does not know the variety or strain of "Cuban seed" tobacco that he claims was taken from Cuba and which he intends to use for his HAVANA CLUB cigars.

11. The most common use of the "Cuban seed" reference in the United States is to a commonly-grown type of cigar tobacco in the Dominican Republic called "Piloto Cubano." This variety of leaf generally offers a heavier body and taste than other types of cigar tobacco grown in the Dominican Republic. In this way, manufacturers and distributors seek to indicate to cigar buyers that the strength and flavor of a specific cigar is more substantial than if made from lighter tobaccos such as Connecticut Shade or Dominican Olor, among others. However, some cigars made with Piloto Cubano tobacco are mild or medium-bodied, depending on the nature of the blend, for example Ashé and Dunhill (both promoted as mild to medium bodied). Likewise, cigars from "Cuban seed" tobacco are likewise sometimes mild to medium bodied (e.g., Bering, Bravo, Romeo y Julieta Vintage, and others. See *Perelman's Pocket Cyclopedia of Cigars* (2006 ed), excerpts annexed hereto as Exh. 3.

12. Although Piloto Cubano tobacco uses the term "Cubano," it is unknown if such tobacco variety actually originated in Cuba or not. My understanding of the vague and uncertain connection between Cuba, "Cuban seed" and "Piloto Cubano," including whether there is any link at all at, is reflected in the testimony excerpts of prominent and highly regarded cigar men in the *Cubatabaco v. General Cigar* case, referenced above.

13. For example, then-General Cigar President and CEO Edgar Cullman, Jr. testified in

Paragraph 106 of his written direct testimony: "‘Cuban seed’ refers to ‘Piloto Cubano,’ which is a type of Dominican tobacco whose seeds trace their genetic origins to tobacco grown in Cuba hundreds of years ago. It is common in the industry to advertise cigars sold in the U.S. as having been manufactured with Cuban seed."

14. Likewise, General Cigar's head of tobacco, Daniel Nunez, a native of the Dominican Republic, testified that "Piloto Cubano" tobacco has been grown in the Dominican Republic at least since the 1930's and 1940's, that "Probably it was developed in Cuba and brought into the Dominican Republic. Probably," that "Cuban seed" is used to refer to "Piloto Cubano," and, when asked whether there is a connection between "Cuban seed" and Cuba, answered, "Not that I know of." (Nunez Dep at 24-26).

15. Oscar Boruchin, the cigar distributor and retailer, himself a Cuban-American, may have put it most clearly and accurately with respect to the use of the term "Cuban seed" and the U.S. cigar market:

Q. Do you have any understanding of what is meant by three varieties of Cuban seed?

A. Cuban seed is a joke of the industry, everybody, every manufacturer. I have -- like, I show you hundreds of brand cigars that always have with Cuban seed. So this is something that everybody uses in the industry. It's common. And I laugh about it because that must be the great-grandchildren of the original Cuban seed. It's supposed to come out of Cuba in the '50s or '60s. The great-great-great-grandchildren.

So this is something that if you look at the contents of most of the cigars made in Honduras and Dominican Republic, any manufacturer will tell you Cuban seed, filler, planted in Dominican Republic or Honduras. This is very common use of the word.

Q. When you say it's a joke, you mean it's meaningless as to the quality of the cigar?

A. Right.

Boruchin Dep. at 108-09.

16. In the 2006 edition of *Perelman's Pocket Cyclopedia of Cigars*, the listings of handmade brands include 23 references to "Cuban seed" and 15 references to "Piloto Cubano" tobacco and in one case they are used together as a combined reference. The references to "Cuban seed" may or may not refer to "Piloto Cubano."

*What significance, if any, does the United States cigar industry attach to non-Cuban origin tobacco claimed to be grown from "Cuban seeds," or to cigars claimed to be made from "Cuban seed" tobacco?*

17. As noted above, references to "Piloto Cubano" long-filler tobacco from the Dominican Republic generally indicate the strength of the leaf used in a particular blend. They do not indicate any relationship with tobacco grown in Cuba.

18. Moreover, it is clear that "Piloto Cubano" or "Cuban seed" tobacco, no matter how characterized, is *not* Cuban. Tobacco called "Cuban seed" is usually grown in the Dominican Republic, and occasionally elsewhere, including Nicaragua. These other locations have climates and soil which are different from Cuba, and from each other. In addition, the characteristics of so-called "Cuban seed" tobacco grown in the Dominican Republic and elsewhere are not static, but change according to current developments in agronomy for resistance to disease, growth size, leaf size, and desired characteristics, such as strength, aroma, and color to meet evolving consumer tastes, and so on. This reinforces the general understanding of so-called "Cuban seed" tobacco as a reference – especially in marketing efforts to consumers – to strength of flavor, or as a title of a variety of tobacco (generally referring to Piloto Cubano) and not an indication of any tangible relationship with tobacco grown in the past (or present) in Cuba. This is consistent with the depositions given by Mr. Boruchin, Mr. Cullman and Mr. Nunez, discussed above.

19. Thus, references by manufacturers or distributors simply to "Cuban seed," or Piloto Cubano, without any other identification of the variety or characteristics of the tobacco, generally signifies to consumers in the United States (either accurately or inaccurately) an element of flavor in the cigar. In either case, the use of these terms also tries to signify or to suggest to U.S. consumers and to the trade a highly questionable or possibly false connection to Cuba of the distant past. When a manufacturer or distributor uses the term "Cuban seed" for tobacco that is *not* Piloto Cubano, with no further information about the variety or strain, then in fact the "Cuban seed" tobacco may or may not have the strength of flavor assumed by the consumer, and would then serve solely to suggest a highly questionable or possibly false connection to or association with Cuba, or Cuban tobacco or cigars of the distant past. It certainly has no relation at all to Cuban cigars of today. s

20. "Cuban seed" is not the only reference of this type in the cigar industry. The highly-prized and expensive wrapper leaf grown in Connecticut is now also grown in Ecuador at much lower cost and is sometimes referred to as "Connecticut seed" wrapper. However, such references indicate only the style and heft of the leaf and do not indicate that the taste, aroma and combustability are identical to that of leaf grown in Connecticut, unless the manufacturer is trying to deceive potential buyers that Connecticut leaf is used when it is not. Unfortunately, that is sometimes the case.

*Does "Cuban seed" tobacco generally, or "tobacco grown from Cuban seed" as claimed by Applicant in its Interrogatory response, have any association or connection with Havana, Cuba, or Cuba? If so, what is that association or connection?*

21. As discussed in detail in my above-responses, there is no direct connection between

tobacco referred to as "Cuban seed" or "Piloto Cubano" grown in the Dominican Republic and other locations and tobacco grown in Cuba today. Most Cuban tobacco grown today is from types developed since 1960 and especially since 1980 as the Cubans have created new strains which are resistant to diseases such as blue mold, black shank and others. Moreover, the general term "Cuban seed" means little with reference to tobacco grown in Cuba prior to 1960 since many types of tobacco were grown there and the term "Cuban seed" is a general term and not specific to any type of tobacco. Among many types, the predominant strains grown for cigars in pre-Revolutionary Cuba included Criollo for binder and filler leaves and Corojo for wrappers and some binders. Within these classifications, there were many sub-strains and independently-owned (at that time) farms often developed their own types to meet the needs of their customers. A long list of other types of tobacco were grown for use in cigarettes and pipes.

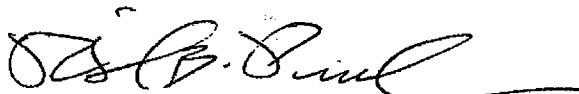
22. Thus, any reference simply to "Cuban seed" makes no specific reference to any kind of tobacco grown in Cuba, either today or in some decades. When used in its most common way, "Cuban seed" refers to Dominican Piloto Cubano, which is generally heavier leaf in body and flavor than some other strains, and which also corresponds to the U.S. consumers' stereotype of Cuban cigars as much stronger in taste and body than American-made cigars prior to the mid-1980s. The use of the term "Cuban seed," therefore, is generally used in the U.S. industry to suggest a highly questionable link to an imagined taste or quality (Cuban) in the minds of sellers (tobacconists) and buyers (smokers) of cigars.

23. Thus, the words "Cuban seed" can only, and at most, be considered today as a shorthand reference to a strength of flavor and body, rather than to any meaningful connection to Cuba, its tobacco or cigars. As I have also explained, however, when not referring to Piloto Cubano or to

another particular strain, "Cuban seed" does not even perform this informational function accurately, and so only has the purpose of making a highly questionable reference to Cuba. As one recent article from *Cigar Magazine* (annexed hereto as Exhibit 3) summed up the "Cuban seed" marketing phenomenon in the United States: "The advertisements for these cigar brands that literally died on the vines sure made a lot of lofty claims and every last one was made from 'choice Cuban seed.' (yeah, so was Ricky Ricardo.)"

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated this 2nd day of August, 2006  
Los Angeles, California



Richard B. Perelman



## **RICHARD B. PERELMAN**

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Electronic mail: rperelman@perelman-pioneer.com

### *Employment History and Professional Credentials:*

#### **CIGAR CYCLOPEDIA.COM**

**Los Angeles, CA**

*(Owned and operated by Perelman, Pioneer & Company, further described below)*

Founder and Editor-in-Chief of the first website to offer daily (weekday) coverage of cigars, accessories, people and issues, beginning in June 2004. The site expanded existing publishing activities in the cigar area, including:

- ▶ *Perelman's Pocket Cyclopedia of Cigars* (12 editions: 1995-present)  
The only comprehensive guide to cigars marketed nationally in the United States, updated annually. More than 150,000 copies have been sold and brand coverage has expanded from 370 in the first edition to 1,206 in the 2006 edition.
- ▶ *Perelman's Pocket Cyclopedia of Havana Cigars* (3 editions: 1997-present)  
Provides complete coverage of Cuban cigar brands, sizes, manufacture and history in a pocket-sized format. New editions were published in 1997, 1998 and 2005.
- ▶ *Perelman's Pocket Cigar Finder* (12 editions: 1996-present)  
Directory of cigar brands offered in national distribution in the United States and the contact information for brand manufacturers and distributors. Published in 10 editions as a support publication for the trade from 1996-2004 and then for publication on *CigarCyclopedia.com*.
- ▶ *Cigar writer and columnist:*  
Provided articles and columns to the following publications:
  - CigarCafe, an America Online-affiliated site (1997-1998)
  - Cigar Lifestyles (1998)
  - The Cigar Monthly (1993-1997)
  - Cigars & More (1998)
  - European Cigar-Cult Journal (2005-2006)
  - Penthouse Magazine (2006)
  - Smokeshop Magazine (1998-2006)
- ▶ *Le Cigar Noir* and other cigar-themed events (1994-2005)  
Creator and producer of more than 30 cigar-themed events, including 25 editions of "Le Cigar Noir," promoted in conjunction with *Smoke* magazine and held across the country in locations including Beverly Hills, Newport Beach, Santa Monica, San Diego and San Francisco, California; Honolulu, Hawaii; Chicago, Illinois; New Orleans, Louisiana; Cleveland, Ohio and Toronto, Canada between 1996-2000.



**RICHARD B. PERELMAN, continued**

Mr. Perelman also managed the cigar tasting program for the famed Friars Club in Beverly Hills, California from 2002-2004.

**PERELMAN, PIONEER & COMPANY**

**Los Angeles, CA**

Founder and President of the company, which provides special event consulting, management and publications services from April, 1987 to the present. A selection of clients includes:

- ▶ America-Japan Week (Long Beach, CA: 1997)
- ▶ Anschutz Entertainment Group (Los Angeles, CA: 2003)
- ▶ Comision Pro-Sede Olimpiadas 2004 (San Juan, Puerto Rico: 1987)
- ▶ Comité Organizador Olímpic  
Barcelona '92 (COOB '92) (Barcelona, Spain: 1992)
- ▶ Federation Internationale de Tir a l'Arc (Lausanne, Switzerland: 1996)
- ▶ Federation Internationale de Volley-Ball (Lausanne, Switzerland: 1990)
- ▶ Los Angeles 2012 Olympic Bid Committee (Los Angeles, CA: 2001)
- ▶ National Columbus Quincentennial Celebration (New York, NY: 1992)
- ▶ Reform Party National Convention (Long Beach, CA: 2000)
- ▶ Salt Lake Organizing Committee for the  
XIX Olympic Winter Games (Salt Lake City, UT: 2002)
- ▶ Seattle Organizing Committee for the  
1990 Goodwill Games (Seattle, WA: 1990)
- ▶ Super Bowl XXVII Host Committee (Los Angeles, CA: 1993)
- ▶ World Baseball Classic (New York, NY: 2006)
- ▶ World Cup USA 1994 (Los Angeles, CA: 1994)
- ▶ World University Games (Buffalo, NY: 1993)

Also producers of publications including *A Guide to the Athletes of the XVI Olympic Winter Games: Albertville* (1992); *Unforgettable: The 100 Greatest Moments in Los Angeles Sports History* (1995) and *Perelman's College Football Companion* (1998-99).

**LIBERTY WEEKEND**

**New York, NY**

(a division of the Statue of Liberty-Ellis Island Foundation)

Director/Accreditation and News Operations: December 1985-August 1986:

- ▶ Responsible for guest, media and staff accreditation and access system, New York Coliseum building leasing and operations and news media logistics for the July 3-6 celebration of the centennial year of the Statue of Liberty.
- ▶ Project scope included accreditation system design and processing for 18,089 applicants, management of the New York Coliseum for show rehearsals, props, wardrobe and the Center for News Media; planning and provision of services for 590 news agencies/5,116 accredited media operating at 11 sites.

**RICHARD B. PERELMAN, continued**

- ▶ Directly responsible for 12 full-time staff and 50 short-term staff; budget authority for the combined areas totaled nearly \$1 million.

**LOS ANGELES OLYMPIC ORGANIZING COMMITTEE**

**Los Angeles, CA**

Editor-in-chief/Official Report of the Games of the XXIIIrd Olympiad: September 1984-June 1985:

- ▶ Responsible for all phases of production of the two-volume, 1,584-page, hard-bound Official Report of the 1984 Olympic Games.
- ▶ Project scope included compilation and editing of 3,566-page manuscript, selection of 1,045 color photographs, artwork, layout, printing and binding within a nine-month time frame.
- ▶ Directly responsible for 26 full-time employees, negotiation and administration of service agreements with all major vendors; control of project budget in excess of \$4.4 million.

Vice President/Press Operations: February 1981-September 1984:

- ▶ Responsible for planning and provision of services for 8,700 news media (press, photographic, radio and television) who attended the Games of the XXIIIrd Olympiad.
- ▶ Project scope included media accreditation, housing, information services, Main Press Center, photography, technology, transportation and operations at 36 sports and athlete village sites.
- ▶ Directly responsible for 25 full-time employees and 1,378 Games-period employees; controlled budget of \$5.0 million cash and \$4.4 million of in-kind goods and services.

**MEMBER OF THE STATE BAR OF CALIFORNIA**

Admitted to practice: December, 1981.

- ▶ Author of "Violence in Professional Sports: Is it Time for Criminal Penalties?," 2 *Loyola Entertainment Law Journal* 75 (1983).
- ▶ Member of the American Bar Association, including Forum Committees on Communications Law and the Entertainment and Sports Industries.

**USA TRACK & FIELD**

**Indianapolis, IN**

Served as national statistician and national team press officer from 1977-81 while an undergraduate and graduate student.

**RICHARD B. PERELMAN, continued**

- ▶ Editor of 36 books and pamphlets on U.S. track and field, including development of the *American Athletics Annual*, *Indoor Track*, *United States Cross Country Handbook* and the *United States Junior Track & Field Annual*.
- ▶ Press officer for six national teams competing in 13 meets in eight nations, including the 1980 United States Olympic track & field team and the 1979 and 1981 United States World Cup teams.

*Education:*

**LOYOLA LAW SCHOOL**

**Los Angeles, CA**

Degree: Juris Doctor awarded May, 1981.  
Honors: Dean's List, 1979-80 and 1980-81 terms.  
Activities: Executive Editor, *Loyola of Los Angeles Entertainment Law Journal*; Intern to United States Magistrate Ralph J. Geffen, Fall 1980.

**UNIVERSITY OF CALIFORNIA, LOS ANGELES**

**Los Angeles, CA**

Degree: Bachelor of Arts in Economics awarded June, 1978.  
Honors: Chancellor's Marshall at Commencement, 1978;  
Member, Honors Program, 1975-78.  
Activities: Manager of the UCLA track & field team, 1975-78;  
Sportswriter, *The Daily Bruin*, 1976-78.

Additional information and references available upon request.

(v15: 70606)



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a.  
CUBATABACO,

Plaintiff,

v.

CULBRO CORPORATION and  
GENERAL CIGAR CO., INC.,

Defendants.

Civil Action No.  
97 Civ. 8399 (RWS)

**DIRECT TESTIMONY OF  
EDGAR M. CULLMAN, JR.**

1. My name is Edgar M. Cullman, Jr. and I am the President and Chief Executive Officer of General Cigar Co., Inc.

**Personal Background**

2. I graduated from Yale University with a B.A. in 1968. After graduating from Yale I enlisted in the U.S. Army. I was posted to the 500th Military Intelligence Group in Japan. In 1971 I was honorably discharged from the Army at the rank of Specialist 4th Class. Subsequently I entered the trainee program at Manufacturer's Hanover Trust Company and worked in the credit area in two branches. After almost three years with Manufacturer's Hanover, I entered the family business in 1974.

3. The Cullman family has been involved in the tobacco business since my great-grandfather emigrated from Germany. For over a century, my family has been involved in the buying, selling, and growing of tobacco leaf. My father became involved in the cigar industry when he purchased a controlling interest in General Cigar Company in 1961.

4. I joined General Cigar as an Executive Trainee. I learned every aspect of the cigar business from growing and processing tobacco to cigar making, as well as marketing and sales. I started working in Puerto Rico where we sorted Connecticut wrappers. Later I

worked in our operations in Kingston, Jamaica; Tampa, Florida; and Wilkes-Barre and Philipsburg, Pennsylvania. My job was to document all aspects of the cigar business and thereby educate myself in the business in preparation for a management position.

5. In 1976, I was appointed Senior Vice President/Cigars and Tobacco of General Cigar. In December 1976 I was appointed Executive Vice President in charge of marketing for General Cigar. In 1978 I was appointed Executive Vice President and Chief Operating Officer of General Cigar. In 1980, I became President of General Cigar and a member of the company's Board of Directors. I became President of Culbro Corporation in 1984. By that time, Culbro, which was formed in the 1970s as the parent company of General Cigar, had businesses in a wide variety of industries, including pharmaceuticals, plastics, distribution, real estate, plant nurseries, mortgage finance and snack foods. From the late 1980s through the late 1990s many of those companies were sold or spun off.

6. In 1996, I became Chief Executive Officer of Culbro. In 1997, Culbro was merged into General Cigar Holdings, Inc. As part of that transaction, all of the remaining Culbro businesses other than its cigar business were spun off into a separate entity. In 1999, General Cigar sold its mass-market cigar business to Swedish Match. In 2000, General Cigar went private, and Swedish Match acquired a 64% interest in General Cigar.

7. When I was named President of Culbro in 1984, my focus shifted away from the cigar business to a broader one, because Culbro owned operating companies in the multitude of industries mentioned above. I was therefore not as involved in the day-to-day management of General Cigar during that period. I was, of course, still ultimately responsible for the cigar business, as I was for all our businesses. It was not until 1997, by which time we had sold off most of our non-cigar businesses, that I began once again to focus solely on cigars.

start of the sales year. The marketing plan identifies the 1997 Retail Tobacco Dealers Association ("RTDA") convention as the target for introduction of a new COHIBA super-premium cigar.

105. I was disappointed that it had taken so long to get the cigar to market but I wanted us to get the blend and marketing correct. I wanted to create a smoking experience that was really something special to the consumer. The company was also very busy dealing with the incredible demand for its other products.

106. I believe we chose the blend for our super-premium COHIBA sometime in 1996 or 1997, though I do not recall precisely when that occurred. We ended up choosing a blend composed of a Cameroon wrapper, Jember binder, and Cuban seed filler tobacco from the Dominican Republic. "Cuban seed" refers to "Piloto Cubano," which is a type of Dominican tobacco whose seeds trace their genetic origins to tobacco grown in Cuba hundreds of years ago. It is common in the industry to advertise cigars sold in the U.S. as having been manufactured with Cuban seed. Because Cuban cigars cannot legally be sold in the U.S., most premium cigar smokers are familiar with what we (and other U.S. cigar companies) mean by "Cuban seed."

107. Sometime in January 1997, while General Cigar was in the midst of planning for the re-launch of COHIBA and the introduction of our new super-premium cigar, I learned that Cubatabaco had filed a petition with the PTO to cancel General Cigar's ownership. I was very surprised to hear about this and did not understand why Cubatabaco would have done such a thing.

108. After Cubatabaco filed its petition, I took it upon myself to try to open a dialogue with them, in order to persuade them that it was in both parties' interests for General Cigar to continue developing its own Dominican-made COHIBA brand in the U.S. while the

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

3

4 EMPRESA CUBANA DEL TABACO,  
5 d.b.a. CUBATABACO,

Plaintiff,

6

- against -

7

8 CULBRO CORPORATION, and  
9 GENERAL CIGAR CO., INC.,

Defendants.

Index No.  
97 Civ. 8399  
(RWS)

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15 DEPOSITION OF ANGEL NUNEZ

16 New York, New York

17 Tuesday, October 30, 2001

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24 Reported by:  
25 LINDA DEVECKA  
JOB NO. 127330

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nunez.excerpts

October 30, 2001

9:40 a.m.

Deposition of Defendants Culbro

Corporation and General Cigar Co., Inc.,  
by ANGEL NUNEZ, held at the offices of  
Rabinowitz, Boudin, Standard, Krinsky &  
Lieberman, P.C., 740 Broadway, New York,  
New York, pursuant to Notice, before LINDA  
DEVECKA, a Notary Public of the State of  
New York.

3

1

2 A P P E A R A N C E S:

3

4 RABINOWITZ, BOUDIN, STANDARD,

5 KRINSKY & LIEBERMAN, P.C.

6 Attorneys for Plaintiff

7 740 Broadway at Astor Place, 5th Floor

8 New York, New York 10003-9518

9 BY: DAVID B. GOLDSTEIN, ESQ.

10

11

nunez.excerpts

12 MORGAN & FINNEGAN, LLP  
13 Attorneys for Defendants  
14 345 Park Avenue  
15 New York, New York 10154-0053  
16 -and-  
17 LATHAM & WATKINS, ESQS.  
18 885 Third Avenue  
19 New York, New York 10022-4802  
20 BY: ELENA C. NORMAN, ESQ.  
21  
22

23 ALSO PRESENT:

24 ROSS WOLLEN

25 - oOo -

□

4

1  
2 IT IS HEREBY STIPULATED AND AGREED by  
3 and between the attorneys for the respective  
4 parties herein, that filing and sealing be  
5 and the same are hereby waived.

6 IT IS FURTHER STIPULATED AND AGREED  
7 that all objections, except as to the form of  
8 the question, shall be reserved to the time  
9 of the trial.

10 IT IS FURTHER STIPULATED AND AGREED  
11 that the within deposition may be sworn to  
12 and signed before any officer authorized to  
13 administer an oath, with the same force and  
14 effect as if signed and sworn to before the  
15 Court.

16 - oOo -

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1

2 A N G E L N U N E Z , called as a witness,  
3 having been duly sworn by a Notary Public,  
4 was examined and testified as follows:

5 EXAMINATION BY

6 MR. GOLDSTEIN:

7 Q. Mr. Nunez, would you please state your  
8 full name and address.

9 A. Angel Daniel Nunez. Address is Bonce  
10 #15 La Rinconada, Santiago, Dominican Republic.

\*\*\*\*\*

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23

1

Nunez

2 A. They did grow a little bit.

3 Q. It wasn't a large-scale production?

4 A. No, sir.

5 Q. What did you do for the Dominican

6 Institute of Tobacco?

7 A. Plant breeding.

8 Q. For what kind of tobacco?

9 A. Mostly for long filler, Piloto Cubano.

10 Q. That's for cigars or for cigarettes?

nunez.excerpts

11 A. Both.  
12 Q. When you say "breeding," what were you  
13 trying to accomplish?  
14 A. Different and improved varieties of  
15 tobacco. Tobacco varieties.  
16 Q. What is Piloto Cubano?  
17 A. It's a seed grown locally.  
18 Q. Why "Cubano"?  
19 A. Why "Cubano"?  
20 Q. Is there a connection to Cuba or is it  
21 a name?  
22 A. It's a name.  
23 Q. Is Piloto Cubano considered Cuban seed  
24 tobacco?  
25 A. Yes.

□

24

1 Nunez  
2 Q. Why is it considered Cuban seed?  
3 A. Why?  
4 Q. Yes.  
5 A. Probably it was developed in Cuba and  
6 brought into the Dominican Republic. Probably.  
7 Q. It's probable that the seed was from  
8 Cuba originally some generations ago?  
9 A. Probably.  
10 Q. Is there any other connection to Cuba  
11 other than that the seed may have come from Cuba  
12 some generations earlier?  
13 A. Connections in -- can you be specific  
14 when you say "connections"?  
15 Q. Is there any other connection to Cuba

16 of the Piloto Cubano?

17 MS. NORMAN: Objection. He has already  
18 testified as to his understanding of the  
19 meaning of the term.

20 Q. Any others?

21 A. No.

22 Q. In the industry there are sometimes  
23 references to Cuban seed tobacco; are you aware of  
24 that?

25 A. Yes.

□

25

1 Nunez

2 Q. Is Cuban seed tobacco and Piloto Cubano  
3 the same thing?

4 A. No.

5 Q. What is the difference?

6 A. Piloto Cubano is today the Dominican  
7 seed that has been grown for decades. Why the  
8 name Cubano on that, I don't know, but it's been  
9 many decades, since the '30s and '40s.

10 Q. Since the '40s this has been grown in  
11 the Dominican Republic?

12 A. I don't know exactly how long back.  
13 Since I remember that's the name, that's the seed  
14 that's been grown locally and it's used for  
15 cigarettes and for long filler cigars.

16 Q. What is Cuban seed tobacco?

17 A. Cuban seed, if I translate it like --  
18 There is no such thing as I know as  
19 Cuban seed.

20 Q. The Cohiba that General Cigar sells,  
21 the filler is Piloto Cubano; is that correct?

nunez.excerpts

22 A. Yes.  
23 Q. You are aware when they advertised it  
24 they advertised it as Cuban seed; you are aware of  
25 that, right?

□

26

1 Nunez

2 A. It's a generic name.

3 Q. "Cuban seed" is a generic name for  
4 what? That's what I am trying to find out.

5 A. For a style of tobacco.

6 Q. Is there any connection between Cuban  
7 seed and Cuba?

8 A. Not that I know.

9 Q. Not that you know?

10 A. No.

11 Q. What is the style that "Cuban seed"  
12 refers to?

13 A. The Piloto Cubano Cuban seed or just  
14 Cuban seed.

15 Q. You said Cuban seed is a style of  
16 tobacco?

17 A. A generic name, I think I said. A  
18 generic name.

19 Q. A generic name for what?

20 A. For the long filler. The style is  
21 short in size, relatively short.

22 I mean, we have to have a description  
23 of what -- is that what you are looking for, a  
24 description of that specific type of seed?

25 Q. I know that General Cigar said its

□

27

nunez.excerpts

1 Nunez  
2 cigar was three varieties of Cuban seed. All I am  
3 trying to find out is what Cuban seed tobacco is.  
4 You said it's a style of tobacco and  
5 you said it was a generic name for long filler  
6 tobacco; is that correct?

7 A. Yes.

8 I will have to explain the whole  
9 concept as I perceive it, as I understand it, to  
10 understand what we call generic name and where the  
11 seeds are coming from and everything.

12 Q. Okay. Can you do that?

13 A. I can try. It's very difficult in  
14 tobacco to understand and to have the whole  
15 history of the seeds.

16 Cuba has had a name for many years as  
17 well as Sumatra. We have been crossing -- just  
18 like grapes, we have been using seed from many  
19 countries for decades, and depending where it  
20 comes from, traditionally the name comes with it.

21 Q. Is all long filler tobacco grown in the  
22 Dominican Republic, Cuban seed tobacco?

23 A. No. Some have origin right in the  
24 Dominican, some have been crossed with Sumatra and  
25 been grown for --

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28

1 Nunez  
2 It depends on who actually worked with  
3 that specific seed for many years, and just a  
4 single select.

5 Q. What makes the Piloto Cubano used in  
6 General Cigar's Cohiba Cuban seed tobacco?

nunez.excerpts

7 MS. NORMAN: Objection. I think you  
8 are characterizing the witness's testimony.

9 MR. GOLDSTEIN: The record will speak  
10 for itself.

11 MS. NORMAN: You can answer.

12 A. Repeat the question.

13 Q. What makes the Piloto Cubano that is  
14 used in General Cigar's Cohiba Cuban seed tobacco?

15 A. We have the name when the seeds are  
16 brought from any origin, we keep the origin as a  
17 name. And every time we select it, we always --  
18 just like Sumatra seed, we keep the name of the  
19 origin, where the seed is coming from.

20 Q. Is there a limit to how many  
21 generations there can be and still be considered  
22 Cuban seed?

23 A. I don't think so.

24 Q. Does it denote a quality of the tobacco  
25 in terms of either a taste or a strength?

0

29

1 Nunez

2 A. It could.

3 Q. But not necessarily? It's more a  
4 designation of origin as opposed to a quality of  
5 plant or whether it's robust or mild?

6 MS. NORMAN: Objection. Is that a  
7 question or are you testifying?

8 MR. GOLDSTEIN: I am asking.

9 MS. NORMAN: Can you restate that as a  
10 question to the witness.

11 MR. GOLDSTEIN: I thought it was.



nunez.excerpts  
12 MS. NORMAN: It was a statement.  
13 Q. Does the name "Cuban seed" denote  
14 anything other than probable origin?  
15 A. It could relate to the style of the  
16 tobacco. It could.  
17 Q. By "style" you mean?  
18 A. I think I will have to --  
19 In tobacco, not so many things are  
20 so -- I can try.  
21 Q. Can you summarize what you mean by  
22 "style"?  
23 A. Yes. I will try.  
24 Just like a horse breed, you still keep  
25 the origin from the original name. A style of

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1 Nunez  
2 tobacco -- we call style of tobacco and we have a  
3 description of it. It's not written, because  
4 these things are not documented in tobacco.  
5 Q. Is Piloto Cubano itself considered in  
6 the tobacco businesses to have certain  
7 characteristics in terms of taste or strength?  
8 A. Yes.  
9 Q. What are those characteristics?  
10 A. Oily, narrow leaf, small veins,  
11 specific flavor and specific strength.  
12 Q. What is the specific flavor? Is there  
13 a term for it or it has its flavor?  
14 A. It has its flavor.  
15 Q. And specific strength, it has a  
16 strength. What kind of a strength does it consist  
17 of?

nunez.excerpts

18 A. Strength is medium to high. That's the  
19 description of the product.

20 Q. Is it considered in the tobacco  
21 industry to be a taste in any way similar to Cuban  
22 long filler tobacco?

23 A. Similar?

24 Q. Yes.

25 A. No, sir.

0

31

1 Nunez

2 Q. Is it considered within the industry to  
3 be specifically known as not similar to a Cuban  
4 taste?

5 A. I don't think so either.

6 Q. Is Piloto Cubano a species?

7 A. No, just a variety.

8 Q. Are there other varieties of Cuban seed  
9 tobacco grown in the Dominican Republic other than  
10 Piloto Cubano?

11 A. Yes.

12 Q. Can you name a couple?

13 A. I can name one. San Vicente.

14 Q. Any others that you are aware of?

15 A. No.

16 Q. Is San Vicente used in any premium  
17 cigars sold in the United States that you are  
18 aware of?

19 A. Yes.

20 Q. Used by General Cigar?

21 A. No, sir.

22 Q. When you were in the Tobacco Institute,

nunez.excerpts  
23 the Dominican Institute of Tobacco, did you do  
24 anything other than breeding Piloto Cubano?  
25 A. Yes.

boruchin excerpts

0001

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

CASE NO. 97 Civ. 8399 (RWS)

EMPRESA CUBANA DEL TABACO d.b.a.  
CUBATABACO,

PLAINTIFF,

-against-

CULBRO CORPORATION and  
GENERAL CIGAR CO., INC.,

DEFENDANT.

DEPOSITION OF OSCAR L. BORUCHIN  
Taken before BARRY S. BATTERMAN, RPR,  
Registered Professional Reporter and Notary Public  
in and for the State of Florida at Large, pursuant  
to Notice of Taking Deposition filed in the above  
cause.

2650 Southwest 27th Avenue  
Second Floor Conference Room  
Miami, Florida  
9:40 A.M. - 1:25 P.M.  
Tuesday, July 25, 2000

0002

APPEARANCES

ON BEHALF OF THE PLAINTIFF

RABINOWITZ, BOUDIN, STANDARD  
KRINSKY & LIEBERMAN, P.C.  
740 Broadway  
New York, New York 10003  
BY: DAVID B. GOLDSTEIN, ESQ.

ON BEHALF OF THE DEFENDANT AND THE WITNESS

MORGAN & FINNEGAN, LLP  
345 Park Avenue  
New York, New York 10154-0053  
BY: JANET DORE, ESQ.

ALSO PRESENT: DIANA BORUCHIN, ESQ.

boruchin excerpts

23  
24  
25  
0003

	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
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0004

1 Thereupon:  
2 OSCAR L. BORUCHIN  
3 was called as a witness and, having been first duly  
4 sworn, was examined and testified as follows:  
5 DIRECT EXAMINATION  
6 BY MR. GOLDSTEIN:  
7 Q. Mr. Boruchin, could you please state your  
8 name and business address for the record?  
9 A. Oscar Boruchin. 1030 Kane Concourse, Bay  
10 Harbor, Florida, 33154.

\*\*\*\*\*

0108

1 paragraphs, could have been provided by her.  
2 Q. But you don't know about the rest of it?  
3 A. No.  
4 Second thing here, that neither us nor  
5 Susan had knowledge, like the contents of the cigar,  
6 like the wrapper and all that. We didn't really  
7 know that until actually the party.  
8 Q. So you think that would have had to come  
9 from a General Cigar source?  
10 A. Yeah.  
11 Q. Speaking of that, where you pointed to the  
12 wrapper and such, just above that it says the cigar  
13 features three varieties of Cuban seed and Dominican  
14 filler tobacco.  
15 A. Right. We were not aware of how the blend  
16 was made or --  
17 Q. Do you have any understanding of what is

boruchin excerpts

18 meant by three varieties of Cuban seed?  
19 A. Cuban seed is a joke of the industry,  
20 everybody, every manufacturer. I have -- like, I  
21 show you hundreds of brand cigars that always have  
22 with Cuban seed. So this is something that  
23 everybody uses in the industry. It's common. And I  
24 laugh about it because that must be the  
25 great-grandchildren of the original Cuban seed.  
0109  
1 It's supposed to come out of Cuba in the '50s or  
2 '60s. The great-great-great-grandchildren.  
3 So this is something that if you look at  
4 the contents of most of the cigars made in Honduras  
5 and Dominican Republic, any manufacturer will tell  
6 you Cuban seed, filler, planted in Dominican  
7 Republic or Honduras. This is very common use of  
8 the word.  
9 Q. When you say it's a joke, you mean it's  
10 meaningless as to the quality of the cigar?  
11 A. Right.  
12 Q. Do you know what is meant by three  
13 varieties of Cuban?  
14 A. No.  
15 Q. You're selling it today --  
16 A. Yes.  
17 Q. Do you know what that refers to?  
18 A. No.  
19 Q. If a customer asks, "what's this three  
20 varieties of Cuban seed," do you know what to tell  
21 them?  
22 A. Cuban seed tobacco, they call it Jember  
23 wrapper, which is, I believe, Dominican wrapper.  
24 Q. Binder or wrapper?  
25 A. Binder. Indonesian. Cameroon wrapper.  
0110  
1 That's what we say.  
2 Q. If a customer came and said, "what is this  
3 three varieties", what --  
4 A. We have to say exactly that, three  
5 varieties of Cuban. Because we don't know -- is no  
6 other specification.



*Perelman's  
Pocket Cyclopedia  
of Cigars  
2006 edition*





*Perelman's  
Pocket  
Cyclopedia  
of Cigars*

*2006 edition*

*Compiled by  
Richard B. Perelman*

*Published by*  
**PERELMAN  
PIONEER &  
COMPANY**

*Los Angeles, California*

\$ 12.95 U.S.

*On the Cover*

The amazing White House humidor created for Altadis U.S.A. for its new Montecristo Classic and Montecristo White brands. Issued in late 2005, it has space for 300-500 cigars and is a unique showpiece.

*Photograph courtesy of Altadis U.S.A.*

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LOS ANGELES, CALIFORNIA 90067 USA

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of Cigars*

2006 edition

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## INTRODUCTION

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The renaissance continues.

That's the story in cigars for 2005, as increased consumption led to the introduction and return of more than 100 brands for the second consecutive year.

After receding in five consecutive editions from 2000 through 2004, the number of brands profiled jumped from 1,091 in the 2005 edition to 1,206 for 2006, a jump of almost 11%. The all-time high of 1,448 was reached in 1999. We may get there again.

Here are a few tips to help users of this book, to make your exploration and research efforts more fun:

*About this book:*

We have provided critical details on a lot of cigars. A total of 1,206 brands are profiled, comprising more than 5,000 models. That's a lot more than the 370 brands we started with in our inaugural edition in 1995.

We note that our listing represents virtually every brand *marketed* nationally. Readers will find some brands which are not listed here, but which are available at his or her local smokeshop. These brands are very likely:

- ▶ Private label or unbranded cigars offered by major manufacturers, on which store names are placed for local sale;
- ▶ House brands produced for individual cigar lounges, mail-order houses or retailers, which are not available through wholesalers for national distribution to tobacco stores;

## INTRODUCTION

- Cigars produced by small, local factories and marketed regionally, or brands which are still *available* nationally, but without any active marketing effort behind them;
- New lines introduced after this book was completed;
- Close-outs (still widely sold!) or discontinued brands no longer produced or available from manufacturers.

This should not dissuade readers from trying or enjoying these cigars. We actively encourage everyone to try new cigars and refrain from the kind of "cigar snobbery" which is so easy for premium cigar smokers to fall into. *The best cigar you will ever smoke might be the next one you try.*

Readers looking for details on these brands may wish to consult our previous editions, which covered many brands now out of production. Please visit our *CigarCyclopedia.com* web site if you wish to purchase back issues of our *Perelman's Pocket Cyclopedia of Cigars*.

### *About the brands:*

We have tried to list, for each handmade brand, the country of origin of the wrapper, filler and binder. While we have received wonderful cooperation from the manufacturers and distributors, more than one executive has told us something like, "This is what we would like to use, but if we can't get it, we will blend in something else."

In most cases, this should *not* be of great concern. After all, most consumers buy specific cigars based on an expectation of taste and draw, not on the ingredients. Recent history shows that

## INTRODUCTION

master blenders have little difficulty re-configuring brands with different tobaccos to achieve the same taste and quality of construction.

### *About the shapes:*

The major trends in brands and shapes for 2005 showed (1) fewer shapes in most brands, concentrated on bigger ring gauges. (2) more strongly-flavored blends and (3) more consumer-friendly packaging. The clearest trends are for:

- ▶ Continued introduction of new lines which are extensions of well-known brands, giving the new blends a major marketing advantage;
- ▶ More perfecto and "box-pressed" shapes with reference to old Cuban sizes and shapes and larger ring gauges;
- ▶ New packaging not only offering the smoker their favorite brands in packs of 3, 4, 5 or 10, but also sampler packs of brands with a range of sizes in a single box. For so many smokers who enjoy a variety of brands, this is a welcome (and cost-saving) development indeed!

A list of the brands which feature extra large, extra long or striped-wrapper cigars is listed in section 2.04.

### *Cuban cigars:*

Because of our concentration on cigars available in the U.S., listings of cigars produced in Cuba are not included. In response to many requests for this information, however, we have produced a companion volume, *Perelman's Pocket Cyclopedia of Havana Cigars*, available through your local tobacconist or by writing to us directly.

### 3. HANDMADE CIGARS: LISTINGS BY BRAND

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This section provides the details on 1,052 brands of cigars, *actively marketed nationally* in the United States, a net *increase* of 101 brands from the 2005 edition. Each brand listing includes notes on country of manufacture, the origin of the tobaccos used, shapes, names, lengths, ring gauges, wrapper color and a brief description *as supplied by the manufacturers and/or distributors of these brands*. Ring gauges for some brands of cigarillos were not available.

Please note that while a cigar may be manufactured in one country, it may contain tobaccos from many nations. The designation "handmade" indicates the use of long-filler tobacco unless otherwise noted.

Although manufacturers have recognized more than 70 shades of wrapper color, six major color groupings are used here. Their abbreviations include:

- DC = Double Claro: green, also known as American Market Selection or "AMS."
- Cl = Claro: a very light tan color.
- CC = Colorado Claro: a medium brown common to many cigars
- Co = Colorado: reddish-brown.
- CM = Colorado Maduro: dark brown.
- Ma = Maduro: very dark brown (also "double Maduro")
- Os = Oscuro: black.

Many manufacturers call their wrapper colors "Natural" or "English Market Selection." These colors cover a wide range of browns and we have generally grouped them in the "CC" range. Darker wrappers such as those from Cameroon show up most often in the "CM" category.



### HANDMADE CIGARS: BRAND LISTINGS

Corona	No. 3	5½	44	CM
Petit Corona	No. 4	5½	43	CM
Robusto	Robusto	5½	50	CM
Robusto	Double Robusto	5½	52	CM
Toro	Presidente	6½	50	CM
Torpedo	Belicoso	5½	52	CM

Here is the result of careful planning and brilliant execution in the making of a new brand from the workshops of Tabacalera A. Fuente. The flawless construction and smooth taste of this medium-bodied cigar make it a rewarding experience from the beginning.

#### ARZT DE LOS REYES

*Handmade in Santiago, Dominican Republic.*

*Wrapper: Ecuador Binder: Dom. Rep. Filler: Dom. Rep.*

Shape	Name	Length	Ring	Wrapper
Churchill	Monarch	7	48	CM
Grand Corona	Regent	6	47	CM
Long Corona	Prince	6	42	CM
Toro	Duke	6	50	CM
Robusto	Viscount	4½	50	CM

This brand was introduced in 1998 by veteran connoisseur Gary Arzt and re-introduced in 2003 by De Los Reyes Cigars. It has a medium body with a Connecticut-seed wrapper and offered in boxes of 25.

#### ARUBA

*Handmade, with mixed filler, in Santiago, Dominican Republic.*

*Wrapper: Indonesia Binder: Indonesia Filler: Honduras*

Shape	Name	Length	Ring	Wrapper
Double Corona	Churchill	7½	50	CM
Toro	Toro	6	50	CM
Robusto	Robusto	5	50	CM

## HANDMADE CIGARS: BRAND LISTINGS

a Piloto Cubano filler combined with a Sumatra wrapper and Dominican Olor binder, packed in elegant all-cedar boxes of 25.

### ASHTON CLASSIC

*Handmade in Santiago, Dominican Republic.*

Wrapper: USA/Connecticut Binder: Dom. Rep. Filler: Dom. Rep.

Shape	Name	Lgth	Ring	Wrapper
Double Corona	Churchill	7½	52	CC
Churchill	Prime Minister	6¾	48	CC
Lonsdale	8-9-8	6½	44	CC
Panatela	Panatela	6	36	CC
Corona	Corona	5½	44	CC
Slim Panatela	Cordial	5	30	CC
Toro	Double Magnum	6	50	CC
Robusto	Magnum	5	50	CC
Small Panatela	Esquire	4¼	32	CC-Ma
Torpedo	Sovereign	6¾	55	CC
Toro	Crystal Belicoso (tubed)	6	49	CC
Lonsdale	Crystal No. 1 (tubed)	6½	44	CC
Corona	Imperial (tubed)	5½	44	CC
Toro	Monarch (tubed)	6	50	CC

Robert Levin of Holt's Tobacconist of Philadelphia, Pennsylvania set out to create a great cigar in 1985 . . . and he succeeded. Ashton cigars are manufactured without compromise at the Tabacalera A. Fuente, blending six tobaccos: Dominican filler and Dominican-grown, Cuban-seed binder leaves with perfect shade-grown wrapper leaves from the Connecticut Valley for a medium-bodied taste.

### ASHTON AGED CABINET SELECTION

*Handmade in Santiago, Dominican Republic.*

Wrapper: USA/Connecticut Binder: Dom. Rep. Filler: Dom. Rep.

## HANDMADE CIGARS: BRAND LISTINGS

### BELMORE CAMEROON SELECTION ★New★

*Handmade in Santiago, Dominican Republic.*

Wrapper: Cameroon Binder: Dom. Rep. Filler: Dom. Rep.

Shape	Name	Length	Ring	Wrapper
Torpedo	Petit Torpedo	5	46	CM
Torpedo	Small Torpedo	5½	48	CM
Torpedo	Torpedo	6	50	CM

Three sizes, three torpedos in this line, introduced to the U.S. in 2005, with a full-bodied flavor in boxes of 10.

### BELMORE E.R.P. SELECTION ★New★

*Handmade in Santiago, Dominican Republic.*

Wrapper: Ecuador Binder: Dom. Rep. Filler: Dom. Rep.

Shape	Name	Length	Ring	Wrapper
Corona	Selection No. 1	5½	44	CC
Grand Corona	Selection No. 2	6	46	CC
Churchill	Selection No. 3	6½	48	CC
Churchill	Selection Tubos (tubed)	7	48	CC

This is a special blend introduced in 2005 that celebrates the 25th anniversary of the Charles Fairmont factory. It's medium in body and offered in boxes of 20 except for the Tubos, offered in 10s.

### BERING

*Handmade in Cofradia and Danli, Honduras.*

Wrapper: Honduras, USA/Connecticut Binder: Honduras

Filler: Dominican Republic, Honduras, Mexico, Nicaragua

Shape	Name	Length	Ring	Wrapper
Lonsdale	Barons	7½	42	CC-Ma
Pyramid	Belicoso	6½	52	CC-Ma
Lonsdale	Casinos (glass tube)	7½	42	DC-CC
Grand Corona	Cazadores	6½	45	CC-Ma

## HANDMADE CIGARS: BRAND LISTINGS

Long Corona	Corona Royale (tubed)	6	41	CC
Grand Corona	Corona Grande	6½	46	DC-CC
Slim Panatela	Gold No. 1 (tubed)	6½	33	CC
Giant	Grande	8½	52	CC
Toro	Hispanos	6	50	CC-Ma
Corona	Imperials (tubed)	5½	42	CC-Ma
Lonsdale	Inmensas	7½	45	CC-Ma
Cigarillo	No. 8	4½	24	CC
Long Corona	Plazas	6	43	DC-CC
Robusto	Robusto	4½	50	CC
Torpedo	Torpedo	7	54	CC
Toro	Sabor Especial	6	50	CC
<i>Machine-made:</i>				
Cigarillo	Bering Filter	3½	20	CC

Bering is a premium handmade cigar imported from Honduras. This blend of specially selected Cuban-seed, long-leaf tobaccos is the reason for the smooth draw and mild-to-medium-bodied taste. The Imperials are available with vanilla flavoring. Berings are available in 15 shapes and a variety of wrappers and in a variety of packaging: 8s, 10s, 15s, 25s and 50s. The tiny Bering Filter, with a Nicaraguan wrapper, was introduced in 2000.

The flavored, mild-bodied Sabor Especial and box-pressed versions of the Hispano and Corona Grande were added in 2001. The Sabor Especial uses a special Honduran wrapper and is available in Amaretto, Irish Cream, rum and vanilla flavors.

### BERING DOMINICAN HALLMARK

*Handmade in Villa Gonzalez, Dominican Republic.*

Wrapper: USA/Connecticut Binder: Indonesia Filler: Dom. Rep.

Shape	Name	Lgth	Ring	Wrapper
Robusto	Robusto	4½	50	CC
Toro	Toro	6	50	CC

## HANDMADE CIGARS: BRAND LISTINGS

This cigar is made by a small factory of the same name. These are medium-to-full bodied cigars, available in 25s.

### BRAVO

*Handmade in Tamboril, Dominican Republic.*

Wrapper: Mexico, USA/Connecticut Binder: Dom. Rep. Filler: Dom. Rep.

Shape	Name	Lgth	Ring	Wrapper
Long Corona	Corona	6	44	CC
Robusto	Robusto	5	50	CC
Toro	Toro	6	50	CC
Double Corona	Churchill	7	50	CC-Ma
Giant	Presidente	8½	50	CC

Introduced in 2004 by the Bravo Cigar Factory, this is a mild-to-medium-bodied blend: 80% Seco and 20% Cuban-seed leaves in the filler. Most shapes use Connecticut wrapper, but the maduro wrapper is grown in Mexico. It is presented in boxes of 25.

### BRETON COROJO VINTAGE

*Handmade in Santiago, Dominican Republic.*

Wrapper: Dom. Rep. Binder: Dom. Rep. Filler: Dom. Rep.

Shape	Name	Lgth	Ring	Wrapper
Corona Extra	Magnum 46	5½	46	CM
Long Panatela	Lancero	7½	38	CM
Petit Corona	Corvette	4½	40	CM

Introduced in 1999, this is a medium-to-full-bodied brand, offered in all-cedar boxes of 12.

### BRETON LEGEND SERIES

*Handmade in Santiago, Dominican Republic.*

Wrapper: Indonesia Binder: Dom. Rep. Filler: Dom. Rep.

Shape	Name	Lgth	Ring	Wrapper
Giant	Churchill	8	50	CM

## HANDMADE CIGARS: BRAND LISTINGS

### DUE MONDI

*Handmade in Santiago, Dominican Republic.*

*Wrapper: USA/Pennsylvania*

*Binder: USA/Kentucky*

*Filler: Nicaragua, Peru, USA/Kentucky*

Shape	Name	Length	Ring	Wrapper
Perfecto	Tosbano	7 1/2	50	CM

This unique cigar, made by Lito Gomez of La Flor Dominicana fame, can be enjoyed as is, or cut in half as in Italy to enjoy twice!

### DUNHILL

*Handmade in La Romana, Dominican Republic.*

*Wrapper: USA/Connecticut*

*Binder: Dom. Rep.*

*Filler: Brazil, Dom. Rep.*

Shape	Name	Length	Ring	Wrapper
Double Corona	Peravias	7	50	CI
Toro	Condados	6	48	CI
Lonsdale	Diamantes	6 1/2	42	CI
Panatela	Samanas	6 1/2	38	CI
Corona	Valverdes	5 1/2	42	CI
Robusto	Altamiras (tubed)	5	48	CI
Churchill	Cabreras (tubed)	7	48	CI
Robusto	Romanos	4 1/2	50	CI
Corona	Tabaras	5 1/2	42	CI
Torpedo	Centenas	6	50	CI

Introduced in 1989, Dunhill's master cigar makers roll a special selection of Piolo Cubano and Olor tobaccos from the Cibao Valley of the Dominican Republic. Wrapping the blend in a Dominican binder, the bunch is then finished with the finest quality Connecticut shade-grown leaf from the Windsor Valley. Prior to final packaging, these cigars are aged in cedar-lined rooms to provide the final mellowing of their mild-to-medium-bodied flavor.

## HANDMADE CIGARS: BRAND LISTINGS

Great Discovery's series:				
Robusto	Lot 96 Series B Maduro (tubed)	5	50	Ma

Introduced by Altadis USA in 2003, this blend features an earthy, medium-to-full-bodied flavor thanks to its blackened maduro wrapper and three-nation interior filler blend. The Mini-Belicoso and Belicoso shapes are box pressed. All shapes are offered in boxes of 25 with the Petite Robusto also offered in 3-packs.

### ROMEO Y JULIETA VINTAGE

*Handmade in La Romana, Dominican Republic.*

Wrapper: Ecuador Binder: Mexico Filler: Dom. Rep.

Shape	Name	Length	Ring	Wrapper
Long Corona	I	6	43	CC
Grand Corona	II	6	46	CC
Robusto	III	5	50	CC
Churchill	IV	7	48	CC
Double Corona	V	7½	50	CC
Pyramid	VI	7	60	CC

Made with perfectly fermented tobacco, the wrapper is selected for a natural, oily sheen and silky appearance. The binder is aged Mexican leaf and the filler is superbly blended Cuban seed and long-leaf Dominican tobaccos. Introduced in 1993, this is a finesse cigar, mild-to-medium in body with very round flavor and made in extremely limited supply.

### ROSA CUBA

*Handmade, with mixed filler, in Esteli, Nicaragua.*

Wrapper: Ecuador Binder: Nicaragua

Filler: Dominican Republic, Honduras, Nicaragua

Shape	Name	Length	Ring	Wrapper
Short Panatela	Angels	4½	38	CC
Corona	Flor de Rosa	5½	44	CC





# BOOMtime Memoirs

## a NOT-SO-FOND reminiscence

by Tom Zarzecki

During the mid-to-late nineties, there was nothing on earth hotter than cigars. But happy times for the manufacturers and their newfound customers were often a pain in the ash for longtime enthusiasts. Nonetheless, it was certainly a crazy and memorable time for lovers of the leaf.

I'm one of those softhearted guys who loves reminiscing about the good ol' days. Come on, you remember, don't you? Think hard - 1994 to 1998? All right, I'll give you a little help: two juiced-up guys with bulging necks named McGwire and Sosa were swatting home runs like it was Little League; Howard Stern showed us his *Private Parts*... and so did the Spice Girls for that matter; someone who once gave the sleeper hold became governor of Minnesota; Tony Soprano revealed a friendlier side of New Jersey; the guy in the white Bronco got off scot-free; and a new form of legalized gambling known as the NASDAQ swept the nation (Cisco and AOL split more times than the Dallas Cowboys Cheerleaders, for God's sake). But perhaps the most memorable thing of all was the newfound, insatiable craze for hand-rolled cigars.

The Cigar Boom. It seemed all of America was infatuated with Churchills, toros, and robustos. Hell, even the commander in chief found new and inventive uses for his torpedo. There were more cigar bars than Dunkin' Donuts,

As the palates of neophyte smokers began to uncover hints of marzipan, leather, and roasted nuts, the rest of the world got more than its fill of spice.

Photo (left) © Kieran Doherty/Reuters/CORBIS  
Photo (right) © SUN/CORBIS

and far-away places like Cuba, Nicaragua, and the Dominican Republic became daily topics of conversation. Terms like "70/70," "canocing," "ligero," and "corona gorda" became part of everyday vernacular and, before we knew it, we were living in two-humidor households. Hard to believe, but it was suddenly cool to smell like your grandfather.

Stogies were *everywhere*: bodegas, delis, liquor stores, and gas stations jury-rigged their sliding-door display cases into well-stocked domiciles for their Fuentes, Ashtons, and Montes. Even my goddamned dry cleaner had a humidor at his front counter. It was cigar mania, baby, and everyone wanted to cash in! A plethora of magazines, books, and tapes educated us on cigar etiquette, as our discerning palates began to uncover hints of marzipan, orange peel, leather, roasted nuts, and caramelized apples (yeah, sure, whatever) in our smokes. Cigar clubs, crawls, and herfs were advertised everywhere, and every little strip mall boasted its very own cigar store, complete with walk-in humidor and private lockers. After a day

chock-full of aggravation from customers and verbal abuse from the wife, a guy could nestle into a comfy leather chair with a double corona in one hand and a snort of his favorite hooch in the other.

Trust me, brother, when I

say *that* was livin' large. It was happy times for everyone — except for the poor bastard who watched his two-dollar smokes jump to ten bucks a stick. But the newbies didn't care... the Boom was in full swing and, just like the NASDAQ, we were all convinced the nirvana would never end.

But, like they say, too much of a good thing ain't always

## The big boys of the industry outdid each other with gargantuan displays, causing rock-star-level commotion.

so good. The market became grossly oversaturated as scores of bullshit brands popped up in record numbers. Many of these "Don Nobody's" were nothing more than trash packaged in fancy cedar boxes with gold-foil bands, selling for three hundred bucks a box. Cigar tobacco was at an all-time premium, but the tiny island nations couldn't produce fast enough. Ball fields, schoolyards, and parking lots were converted into makeshift *vegas* as the demand intensified. Proper aging was ignored so that certain manufacturers could push more of their product to market. In fact, I remember cracking open a fresh box from which the stench of ammonia was so extreme that I could have used it to revive a quarterback who just got his bell rung.

As with any new craze, there were a lot of folks trying to make a quick buck, and one serious dilemma that arose was rampant counterfeiting. Faux Cubans were peddled at an alarming rate and *everyone* fell victim; I couldn't go to a party without someone asking me if I wanted a Habana, then producing nothing more than a cedar box full of dried-up turds. The worst con job I ever witnessed was at a softball team party. This guy had been bragging for a week that he was going to show up with his prized Cohibas, which turned out to be nothing more than grotesque imitations, filled with pipe tobacco and wrapped in cellophane. Of course, the beer-guzzling swine sucked them down as if they were straight from Fidel's private stash. Idiots.

Another heavily knocked-off cigar was Fuente's newest and brightest shining star: the Opus X. The clamor for this

Why would rich rock stars of the nineties dress like this? Because their favorite smokes suddenly cost more than their labels could pay them, that's why!

Photo © SUN/EDRBE



Dominican puro was unprecedented. If a shop just happened to get its hands on a couple of boxes, the cost was around thirty bucks a stick — with a one-per-customer limit! Many a shyster took any dog rocker he could find, slapped a bogus Opus band (usually cheesy color copies at best) around it, and passed it off with a hefty price tag. One way or another, it

## Unfortunately, along with the glorious Boom came many a cigar neophyte who wanted so badly to be trendy, hip, and cool.

seemed as if everybody and his uncle was hopping on the stogie bandwagon. The mind boggled at the many new cigar brands. For every one mainstay like Partagás, Romeo, or Punch, there were dozens of wannabes lining cigar-store shelves in record numbers. Most of these products, whose manufacturers didn't know squat about marketing, blended together in a vast sea of cigar purgatory. Thinking about all those nameless, faceless brands, I began to wonder where the hell they all could have gone? I mean, there were *so many*. As usual, my curiosity got the best of me and I proceeded to dig through my collection of cigar-related crapola, where I found RTDA convention guides from 1996 and 1997. And I also ran across the Summer 1997 issue of *Smoke*, a whopping 464-page behemoth sporting Jeff Goldblum on the cover... it looked like a friggin' phone book! This stuff was completely laden with ads for long-forgotten brands. Now, a few could possibly still be around but, for the most part, these boomtime casualties have departed to that great humidior in the sky.

So many of the monikers were boring and unoriginal; maybe they thought that if their names didn't start with Don, El, La, Vegas, Havana, San, Santa, or Villa, they didn't qualify for the club. Many were unintentionally humorous, complete with goofy tag lines and all. Let me start with the Dons: Don Asa; Don Antonio (sounds like some leg breaker that makes you kiss his ring); Don Sixto (not to be confused with Don Sevento); Don Rex,

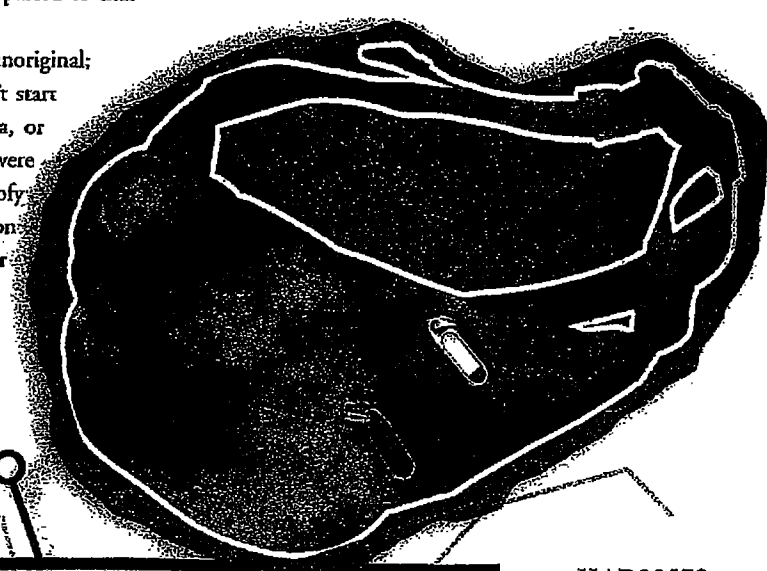
whose ad featured one ugly-ass bulldog and a headline that said, "Meet Rex." (Yeah, I don't get it either.); Don Xavier's tag line read, "The definition of elegance." If I had a cigar brand, I'd name it something cool like "Don Knotts." There'd be different names in the line-up, just like Lars Teterens does... you know, like Barney, Opie, Goober, or the Aunt Bee, which would have a fat-ass ring gauge and smell like fresh apple pie. Hey, don't laugh; I'm in marketing and this is solid.

Then there were the "La"s: La Native; La Regenta; La Reina; and La Tradición Cubana (which, granted, is catchier than La Tradición Newark). And, the "El"s: El Esencial, El Murazo, and El Sublimado with a tag line bearing the cryptic words:

"The name says it all." (Am I missing something? I don't speak Spanish, so what the hell *is* the name saying?) If I owned a cigar company back then, I would have boxed up factory thirds, slapped on a twenty-dollar-per-stick price tag, and aptly called it "El Stupido: The cigar for stupid bastards of the Boom." (Give it some time; you'll start to like it.)

Now for the Cuban take-offs; all they ever wanted was to be remotely affiliated with the motherland! Havana Sunrise; Havana Classico; Fuego Cubano; Garo Cubano; and Havana Florida (they might've needed a map). Personally, I really loved Mi Cubano's line: "The first 100% Cuban-seed tobacco cigar with Cuban taste made outside of Cuba." Perhaps they should have jammed even more "Cuba"s in there: "... rolled on the golden-brown Cuban thighs of Cuban women who live down the street... from their Polish friend Stosh."

Come on, you know you had one. To carry your cigars in... right? Yeah, sure.



HAB00578

There were even a few 'gars from the Philippines, which is one place that I feel made some downright awful-tasting smokes – just not my cup of tea. Now, I never tried any of these brands listed, but I gotta poke fun anyway: Flor de Filipinas; Double Happiness (does that mean it's twice as bad?); and my all-time favorite, Fighting Cock – a name I was sure had to be one hell of a marketing faux pas! You have to admit, it conjures up some pretty stiff imagery. So, I visited a Filipino Web site, which said, "Philippines cockfighting is a national sport and favorite pastime deeply ingrained in Filipino culture." But, sadly, if you're selling it in America, it takes on a slightly different message. (As you can imagine, my brain is running rampant with moronic and crude tag lines, but my editor Nicole does have her breaking point.) Okay, okay... just this one: "Fighting Cock: Giving smoking a whole new meaning of pleasure." Sometimes I just can't leave well enough alone.

A funny thing to note is that all these wannabe Johnny-come-latelies of the day peddled the same bullshit highbrow copy in their ads. The advertisements for these cigar brands

that literally died on the vine sure made a lot of lofty claims, and every last one was made from "choice Cuban seed." (Yeah, so was Ricky Ricardo.) They were *all* "meticulously crafted," or perhaps even "skillfully hand rolled," in the "time-honored Cuban tradition"... by artisans trained since *birth!* Expertly blended select tobaccos, which were *expertly* cured and handcrafted, then *expertly* rolled by two friggin' *experts* named Manuel Labor and Manuel Dexterity. Ancient techniques were passed from generation to generation, as their forefathers were rollers for... Columbus's crew! The precious family seeds were *lovingly* grown in rich, *fabled* soil, before becoming only the smoothest, silkiest wrappers that were then aged with the timeless patience of a saint, and destined for only the *most discriminating* of palates before they... ended up in some wholesaler's catalogue for twelve dollars a box.

Here's some of my favorite ad copy:

Signature Collection boldly said, "Most critics agree that our cigar is better than many aged Cuban cigars." What they failed to tell you, the smoker, was that these esteemed critics usually evaluated off-Broadway productions.

Hurricanos boasted that its cigar had "flavor that will blow you away." Yeah, take out the "you away" and I'm pretty sure the tag line was right on target.

Fat Cat ordered, "Don't let the name fool you." But when smokers read between the lines, they learned that these smokes had been aged up to six months in Spanish-cedar litter boxes.

Canonero was soothingly "grown in a rain forest, in an unknown valley, cultivated on rich volcanic slopes, and was the best-kept secret in premium cigars." So secret, in fact, that it was buried on page forty-three next to the Dutch Masters. *Shhh...*

Puros Vargas invited us to "smoke the most mysterious and exotic blends of tobacco." If I'm not mistaken, Tommy Chong was their spokesman.

Then there was Lady Stogie, who coquettishly asked, "Are you man enough to try a Lady Stogie?" (Perhaps for those who were *not* man enough to try a Fighting Cock.)

And, finally, Caonabo flat-out claimed to be "the best Dominican cigar." But, in tiny type underneath, it continued, "Voted three years running by the Fort Wayne, Indiana, Friars Club."

"With all this publicity, now would be the perfect time to launch my own cigar line... if it's counterfeit, you must acquit."

Photo © GUTNECHT/CORBIS SYGMA



Unfortunately, along with the glorious Boom came many a cigar neophyte who wanted so badly to be trendy, hip, and cool. Guys who once thought putting a big fat Churchill to their lips was something their old Uncle Dominic did were now whooping it up at every happening cigar bar this planet had to offer.

At one cigar dinner back in the day, I was completely

**The advertisements for these Boom brands sure made a lot of lofty claims; every last one was made from "choice Cuban seed."**

**Yeah, so was Ricky Ricardo...**

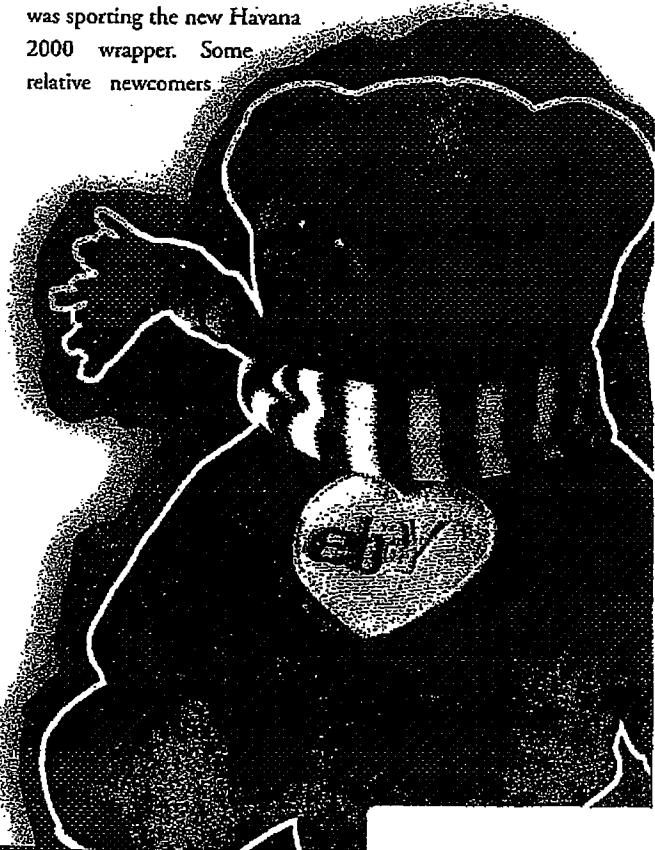
surrounded by a horde of overzealous yuppies trying to impress one another with proper stogie etiquette. "Never let the flame directly touch the opening of your puro, my good man," said a Wall Street-type to his friend. "Let it gently kiss and caress the tip to prepare it for the forty-five minutes of pleasure it is about to deliver." (I think that same line was uttered in the Ken Starr hearings with Bill Clinton.) As we were handed our cigars at the start of the dinner, this very same rank amateur turns to me and says, "Oh, yes, I've had this one before. I just *love* this cigar!" Out of sheer courtesy (and with the hope that I could mock him later), I inquired to which brand he referred. "This one right here - 'Hecho a Mano.' Great brand!" At that very moment, I understood that the Cigar Boom had taken a very wrong turn, indeed.

Then, of course, there were the babes of the Boom. Women in record numbers were suddenly smoking cigars and, frankly, it was just plain weird. I mean, my wife and her yenta bosom buddies despise the reek of my Romeos. But, nonetheless, scores of beautiful ladies flocked to cigar haunts, perhaps hoping to bag an up-and-coming lawyer or stockbroker. It's like they say: if you're going fishing, go where the fish are. And there were certainly more large-mouth bastards than you could shake a hook at. Ya gotta admit, there's something freakish about a hottie decked out in a

tight, black mini, high heels, fine jewelry, and a mammoth, smoldering club dangling from her jaw. But as with any hot trend, when the bandwagon is playing, the swank and the stylish will hop on.

Back in the summer of 1998, I had the pleasure of spending three days in Nashville, Tennessee, at the Retail Tobacco Dealers Association (RTDA) tradeshow. If you're a cigar guy, this is the king-daddy of all shows. There were close to nine hundred booths. All the big names were there, as well as every single one of the fledgling cigar companies. There were so many people at this event, you'd swear it was the freakin' Super Bowl, and, to many, it was just that (minus Janet Jackson's bare hooter). It was a carnival - I've never seen anything like it. There were humidors, lighters, and other paraphernalia; gorgeous models of every shape and size; enough wine, cognac, and Scotch to take down the Russian army; and, of course, cigars, cigars, cigars!

Much of the show's fanfare was due to the debuts of new cigars or line extensions. Macanudo was launching the Robust, AVO premiered the Domaine, Hoyo showed off their premium Royal Selección, and Montecristo was sporting the new Havana 2000 wrapper. Some relative newcomers



The contents of this Beanie Baby are probably more enjoyable to smoke than some of the stuff touted as premium cigars during the Boom years.

HAB00580

## BOOMTIME MEMOIRS

were also making a big hit, as CAO, Bahia, Perdomo, and La Flor Dominicana had shop owners clamoring for their tasty stoags. Chuck Norris and Jim Belushi introduced Lone Wolf, and I actually got to yak a while with Jimmy B. at the Jack Daniel's Saloon.

The big boys of the industry outdid each other with gargantuan displays, causing rock-star-level commotion. General and Altadis had armies of people working their booths to handle the absolute onslaught. By far, the biggest ballyhoo of all was caused by the Fuente family. Their booth was a city block long, exuding a total circus-like atmosphere. And in the center ring were Carlos, Carlito, and Cynthia, posing for pictures, signing autographs, and basking in the limelight.

I certainly can't forget the nightlife in downtown Nashville. The RTDA show coincided with a beauty-salon event at the convention center, sporting several thousand very fashionable ladies. You can only imagine that, by nightfall, this picturesque,

nostalgic southern city was overrun by stogie-sucking, horny Neanderthals. We'd stay out partying all night, then show up first thing in the morning, dragging our sorry asses around the showroom floor. But damn, it was fun.

And, the most lasting impression I have of that trade show is the vast sea of Don Nobodys, who have since met their demises. Seventy-five percent of those display booths were filled with would-be entrepreneurs who tried to capitalize on the craze, and are now extinct. All the predictable advertising lines were shelled out: expertly blended tobaccos... Cuban seed... fabled soil... old-world tradition... yada, yada, yada. Every single one of these yahoos claimed their tobacco was aged for three – no, four – no, *five* years... yeah, that's the ticker: they've been aging for *five long years!* These morons didn't know filler, binder, and wrapper from Moe, Larry, and Curly. To them, "Connecticut shade" was lounging under a tree in New Haven, and "oscuro" was Felix Unger's roommate. The biggest crock-of-dung line of all was that their *torcedors* used to work at Fuente, rolling the renowned Opus X. Yeah, and my dad pitched the deciding game five of the '69 World Series for the Mets.

I truly believe that the 1998 RTDA show was the swan song for the great Boom. Consumers finally wised up, realizing that ten bucks was just a bit too much to pay for a rolled-up piece of excrement. Sales began to slump and puros returned to normal price points. Good tobacco was available and properly aged cigars were again accessible to the die-hards. The good news was that some great new brands certainly did emerge and many new folks became faithful brothers of the leaf.

The prosperous decadence of the Boom years was an incredibly memorable time. As my stock portfolio increased, my end-table humidor just got fuller and fuller. I find it an interesting coincidence that both the Cigar Boom and the tech-stock boom met their demises at around the same time; the parallel is uncanny. And while I enjoyed the newfound acceptance of cigar smoking, I'm thankful that all the wannabes, posers, and especially *most* of the gougers have faded from existence... like a puff of blue smoke. But, I'm most of all thankful that I can find my favorite cigar – aged just right – at a price that allows me to indulge once again. *CM*



Our former fearless leader and his  
Flor de Levinsky.

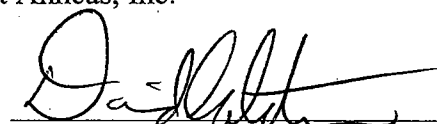
Photo © NANCY LANE/CORBIS SYGMA

### **CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing Deposition of Richard B. Perleman, and Exhibits thereto, was served on Applicant by mailing, postage prepaid, said copy on September 20, 2007 via U.S. Mail to:

Jesus Sanchelima, Esq.  
SANCHELIMA & ASSOCIATES, P.A.  
235 S.W. Le Jeune Road  
Miami, FL 33 134- 1762

Counsel for Applicant Anncas, Inc.

  
DAVID B. GOLDSTEIN

In the matter of Trademark Application  
Serial No. 78/363024  
Filed February 5, 2004  
For the mark HAVANA CLUB  
Published in the Official  
Gazette on December 14, 2004

Applicant.

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MAY 15, 2007

DEPOSITION ON WRITTEN QUESTIONS of EUMELIO ESPINO MARRERO, produced as a witness at the instance of the Opposer, and duly sworn, was taken in the above-styled and numbered cause on the 15th day of May, 2007, from 11:40 a.m. to 2:28 p.m., before Monique M. Hinchcliff, CSR in and for the State of Texas, reported by machine shorthand, at the office of AROCHI, MARROQUIN & LINDER, Torre Mural, Insurgentes Sur 1605, 20th Floor, 03900 MEXICO, D.F. MEXICO.

COPY



A P P E A R A N C E S

FOR THE OPPOSER:

BY: Mr. David B. Goldstein  
RABINOWITZ, BOUDIN, STANDARD, KRINSKY &  
LIEBERMAN, P.C.

111 Broadway, 11th Floor  
New York, New York 10006

PRESENT FROM HABANOS, S.A.:

BY: Lic. Manuel Garcia  
HABANOS, S.A.

Calle 3ra No. 2006 e/ 20 y 22  
Miramar, Playa  
Ciudad de la Habana, Cuba

The Interpreters: Maria Esther Lemus  
Veronica Mendez

\* \* \* \* \*

## I N D E X

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## EUMELIO ESPINO MARRERO

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-o-o-o-

1 EUMELIO ESPINO MARRERO,  
2 having been first duly sworn, testified as follows:

3 OPPOSER'S DIRECT WRITTEN QUESTIONS

4 Question No. 1:

5 Q. Please state your full name and residence  
6 address for the record.

7 A. Eumelio Miguel Espino Marrero. My address is  
8 53 Avenue, Number 6302 between the 63 and 68,  
9 San Antonio de los Banos, Cuba.

10 Question No. 2:

11 Q. Do you understand that you are under oath?

12 A. Yes.

13 Question No. 3:

14 Q. Is there any reason that you cannot testify  
15 truthfully today?

16 A. I feel good. No problem.

17 Question No. 4:

18 Q. Are you taking any medicine that might impair  
19 your ability to answer the questions truthfully and  
20 accurately?

21 A. No.

22 Question No. 5:

23 Q. Do you understand that I will be reading  
24 questions that have been prepared by the lawyers in  
25 this case?

1           A.     Yes.

2       Question No. 6:

3           Q.     Do you understand that these questions will  
4       be translated into Spanish by the interpreter here,  
5       that you are to answer these questions in Spanish,  
6       that the interpreter will translate your answers into  
7       English, and that I will record the English answers?

8           A.     Yes.

9       Question No. 7:

10          Q.     If you want me or the interpreter to repeat a  
11       question again, please tell the interpreter to do so,  
12       okay?

13          A.     Okay.

14       Question No. 8:

15          Q.     Do you understand that if you do not  
16       understand a question, I can only repeat the question;  
17       I cannot clarify, or reformulate or explain the  
18       question?

19          A.     Yes.

20       Question No. 9:

21          Q.     If an attorney has made an objection to a  
22       question, I will read the objection after I have read  
23       the question. Please do not answer the question until  
24       I have read both the question and any objection, and  
25       they have both been translated into Spanish, all

1 right?

2 A. Okay.

3 Question No. 10:

4 Q. If you need a break, please tell me, and we  
5 will take a break after you have answered a pending  
6 question, all right?

7 A. Okay.

8 Question No. 11:

9 Q. Are you a citizen of the Republic of Cuba?

10 A. Yes.

11 Question No. 12:

12 Q. Are you a citizen of any other country?

13 A. No.

14 Question No. 13:

15 Q. Is Spanish your primary language?

16 A. Yes.

17 Question No. 14:

18 Q. Do you speak English or understand spoken  
19 English?

20 A. No.

21 Question No. 15:

22 Q. Are you fluent in English?

23 A. No.

24 Question No. 16:

25 Q. Are you able to read documents in English?

1 A. With a lot of difficulties hardly.

2 Question No. 17:

3 Q. What year were you born?

4 A. '48.

5 Question No. 18:

6 Q. Are you aware that this matter involves a  
7 dispute between Corporacion Habanos, S.A. and a  
8 company in the United States, Anncas, Inc., concerning  
9 Anncas's attempt to register HAVANA CLUB as a  
10 trademark for cigars in the United States?

11 A. Yes.

12 Question No. 19:

13 Q. Prior to your involvement in this proceeding  
14 were you aware of the United States company Anncas,  
15 Inc.?

16 A. No.

17 Question No. 20:

18 Q. Do you know who William Bock is?

19 A. No.

20 Question No. 21:

21 Q. What is your educational background after  
22 high school, including the names of any schools, dates  
23 attended, areas of study, and any degrees received?

24 A. Agriculture engineering. In the Agronomy of  
25 the University of Havana from 1977 to 1983. Then I

1 did a master's degree in biological sciences with a  
2 specialization in plant genetics in the year 1996.

3 Question No. 22:

4 Q. What were the topics of any thesis papers  
5 that you prepared?

6 A. You mean prepared or furnished. Genetic  
7 Improvement for the Tobacco in Cuba.

8 Question No. 23:

9 Q. Have you taken any other specialized courses  
10 related to your work in tobacco?

11 A. Yes.

12 Question No. 24:

13 Q. If so, what courses?

14 A. In the year 1982, it was a training course in  
15 the Bergerac Institute in France about the same issue,  
16 tobacco improvement or enhancement.

17 Question No. 25:

18 Q. Have you ever been employed by Corporacion  
19 Habanos, S.A.?

20 A. No.

21 Question No. 26:

22 Q. Have you ever been employed by Empresa Cubana  
23 del Tabaco, also known as Cubatabaco?

24 A. Yes.

25 Question No. 27:

1 Q. By whom are you currently employed?

2 A. The Institute of Tobacco Research of Cuba.

3 Question No. 28:

4 Q. What is your current position and title with  
5 the Cuban Institute of Tobacco Research (Instituto  
6 Cubano de Investigacion de Tabaco)?

7 A. Technical and productive under director.

8 Question No. 29:

9 Q. Is this Institute part of any government  
10 ministry in Cuba?

11 A. Yes.

12 Question No. 30:

13 Q. If so, what ministry?

14 A. The ministry of agriculture.

15 Question No. 31:

16 Q. Since what year have you been employed by the  
17 Cuban Institute of Tobacco Research?

18 A. Since 1977.

19 Question No. 32:

20 Q. How long have you been in your current  
21 position?

22 A. In the last one, since the year 2000.

23 Question No. 33:

24 Q. Describe your primary responsibilities in  
25 this position.



1           A.    My responsibilities are to carry out the  
2   agricultural extensionism and also in the industrial  
3   link of the manufacturing chain.

4   Question No. 34:

5           Q.    Describe any prior positions you held with  
6   the Cuban Institute of Tobacco Research, including the  
7   dates, job titles and primary responsibilities.

8           A.    Since the year 1977 up to the year 2000, I  
9   was in charge of -- I was the scientific under  
10   director. I was responsible of the genetic  
11   improvement or enhancement of tobacco in Cuba.

12   Question No. 35:

13           Q.    What are the primary functions of the Cuban  
14   Institute of Tobacco Research?

15           A.    In a general sense, it's to create the  
16   scientific basis that in all the productive chain of  
17   the tobacco lead us to have the necessary efficiency.  
18   And besides, in the Institute, also has the  
19   responsibility for quality control of all the  
20   productive chain of the tobacco.

21   Question No. 36:

22           Q.    Specifically what role, if any, does this  
23   Institute play in the selection, perpetuation and  
24   production of the genetic characteristics of Cuban  
25   tobacco?

1           A.     Firstly, in the Institute, we develop the  
2 programs for genetic enhancement directed to get new  
3 commercial varieties that will have basically  
4 resistance to the main sicknesses that happen and  
5 appropriate potential for production and to comply  
6 with the main premise that we have, to preserve the  
7 organoeleptical pattern, and as organoeleptical  
8 pattern, we mean the aroma, the flavor, the strength,  
9 that is to say, all the features, all the  
10 characteristics that can be appreciated by the senses,  
11 when you are smoking a cigar.

12 Question No. 37:

13           Q.     Could you briefly describe how the Institute  
14 performs this function?

15           A.     We develop enhancement programs following or  
16 according to the conventional methods, the traditional  
17 methods. That is to say we have inter-variety  
18 methods, crossings, and also genealogical selection.  
19 This is the fundamental method that we use to get new  
20 varieties. The crossings of one variety with another  
21 one. The crossing of varieties.

22 Question No. 38:

23           Q.     Have you had any other employment in the  
24 tobacco or cigar industry?

25           A.     No.

1 Question No. 39:

2 Q. If yes, identify your other employers in the  
3 tobacco or cigar industry.

4 A. When I work with Cubatabaco from the year  
5 1970 to the year 1977, my role was to be in charge of  
6 directing the group of tobacco enhancement.

7 Question No. 40:

8 Q. Please provide the name and location by city  
9 and country for each such employer.

10 A. I don't understand.

11 THE INTERPRETER: I used a term he did  
12 not understand so I'm going to repeat it.

13 (Interpreter repeated question.)

14 THE WITNESS: I have only worked in  
15 Cuba. And as I already explained to you, I started in  
16 Cubatabaco and then I went to the Institute of the  
17 Tobacco.

18 Question No. 41:

19 Q. For each such employer in the tobacco or  
20 cigar industry, please describe the nature and type of  
21 that employer's business.

22 A. The business of the company, Cubatabaco, was  
23 in charge of the production and sales of tobacco in  
24 Cuba. And because they were also in charge of  
25 investigation and research, I started working in that

1 department. Then the Institute has no business. It's  
2 a research institute.

3 Question No. 42:

4 Q. For each such employer, what were your dates  
5 of employment?

6 A. I have already said that, but I'm going to  
7 repeat it. From the year 1970 to 1977, I work in  
8 Cubatabaco, and then from 1977 up to now in the  
9 Institute of Research.

10 Question No. 43:

11 Q. For each such employer, describe your job  
12 responsibilities, including your position and title.

13 A. I already mentioned this.

14 Question No. 44:

15 Q. To the extent not previously described in  
16 answer to the above questions, can you please describe  
17 your role in the genetic development and improvement  
18 of tobacco seeds in Cuba?

19 A. Of course. As I mentioned already, since the  
20 year 1977, I am in charge of directing the program of  
21 genetic enhancement of the tobacco in Cuba. And when  
22 I have to carry out other functions, I have never  
23 stopped directing these programs. Therefore, all the  
24 new varieties that we have get in the country have  
25 been obtained by the team that I direct, that I lead.

1 Question No. 45:

2 Q. To the extent not previously answered, what  
3 role, if any, have you had in the development of the  
4 tobacco seeds currently cultivated in Cuba for use in  
5 the manufacture of cigars?

6 A. I think that I already answered this in the  
7 previous question.

8 Question No. 46:

9 Q. Can you give specific examples of the  
10 research that you have conducted or participated in?

11 A. Yes. I have carried out investigations of  
12 basic characteristics trying to look for the genetic  
13 relationships that rule the characters of the plants  
14 that are of commercial interest. And I have studied  
15 also, and also as a basic knowledge, the effect of the  
16 general type environment interaction, that is to say,  
17 we have studied the behavior of our varieties in  
18 different locations and years, and this has given us  
19 of to which extent these variables are susceptible to  
20 the environment in which they are being grown. And  
21 also, of course, we have developed, as I already  
22 mentioned to you, the programs focused to getting new  
23 varieties that correspond to the demands of the crops  
24 in Cuba.

25 Question No. 47:

1 Q. Was your father a tobacco farmer when you  
2 were growing up?

3 A. He was tobacco producer.

4 Question No. 48:

5 Q. In what part of Cuba was that tobacco farm  
6 located?

7 A. Siego Diago (phonetic). In the center of the  
8 island. Means blinds of Avila.

9 Question No. 49:

10 Q. Is that area of Cuba known for the quality of  
11 its tobacco?

12 A. Yes. It is right in the so-called Zona de  
13 Remarios (phonetic).

14 Question No. 50:

15 Q. Did you participate in tobacco cultivation,  
16 harvesting, or processing while a child and teenager?

17 A. Not directly participating because I was  
18 studying.

19 Question No. 51:

20 Q. In what ways?

21 A. Well, I knew tobacco because my father told  
22 me. I lived in a tobacco zone where the tobacco is  
23 one of the main crops so we inhale tobacco in the  
24 environment.

25 Question No. 52:

1 Q. Have you had any employment outside of the  
2 tobacco or cigar industry?

3 A. No.

4 Question No. 53:

5 Q. If yes, identify your prior employers outside  
6 the tobacco industry, the nature of that employer's  
7 business, and the dates of such employment.

8 A. (No answer.)

9 Question No. 54:

10 Q. Have you ever traveled outside Cuba in  
11 connection with your work concerning tobacco or  
12 cigars?

13 A. Yes.

14 Question No. 55:

15 Q. To what countries have you traveled in  
16 connection with such work?

17 A. Let me try to remember. I have visited the  
18 former Soviet Union, Japan, England Spain,  
19 Switzerland, Italy, Canada, Mexico, Nicaragua, Costa  
20 Rica, Peru, Brazil, Argentina. I think I'm not  
21 missing any of them.

22 Question No. 56:

23 Q. When did you first travel outside Cuba in  
24 connection with such work?

25 A. In the year 1972.

1 Question No. 57:

2 Q. Have you provided technical assistance  
3 outside of Cuba concerning the production of tobacco?

4 A. Yes.

5 Question No. 58:

6 Q. If so, can you provide some examples of such  
7 assistance, including the countries, and the nature  
8 of your work?

9 A. The nature of the work always has been  
10 tobacco enhancements. I have rendered technical  
11 assistance in Nicaragua, practically during the whole  
12 '80s. I also gave technical assistance in Mexico  
13 since the year 1996 up to these days and in Brazil  
14 since the year 1998 up to the year 2004.

15 Question No. 59:

16 Q. As a result of your work outside Cuba, do you  
17 consider yourself knowledgeable about tobacco  
18 cultivation in other countries?

19 A. At least of the countries that I have  
20 visited, yes.

21 Question No. 60:

22 Q. What countries in particular?

23 A. Well, I forgot one. I think that when I  
24 mentioned the visited countries I didn't mention the  
25 United States. I forgot it.



1 Question No. 61:

2 Q. Have you attended conferences outside Cuba on  
3 tobacco matters?

4 A. Yes.

5 Question No. 62:

6 Q. If so, can you provide some examples of such  
7 conferences and the subject matter?

8 A. Yes, of course, in the CORESTA conferences,  
9 CORESTA, it's an organization that gathers tobacco  
10 research in the world, and it also develops  
11 conferences every certain time in which they are going  
12 to present or introduce their works. In these CORESTA  
13 conferences I have participated in Italy, England and  
14 Switzerland. Besides, I have also presented works,  
15 speakers in the United States, in the state university  
16 of New Jersey. I also presented papers in Spain, here  
17 in Mexico, in Japan, in Argentina, Costa Rica, and I  
18 don't know if I am missing some country.

19 Question No. 63:

20 Q. Have you ever been invited to lecture abroad  
21 on tobacco matters?

22 A. Yes, the ones I have already mentioned.

23 Question No. 64:

24 Q. Again, if so, can you provide some examples  
25 of lectures you have given and the topics?

1           A.     Sometimes the topics has been tobacco  
2           enhancement and some other times it has been  
3           development and origin and development of the black  
4           Cuban tobacco.

5           Question No. 65:

6           Q.     Have you ever been to the United States?

7           A.     Yes.

8           Question No. 66:

9           Q.     If so, when and for what purpose?

10          A.     It was in 1995. The purpose I already said,  
11          was a conference, a lecture I gave at the state  
12          university of New Jersey.

13          Question No. 67:

14          Q.     What was the topic of any lectures that you  
15          gave in the United States?

16          A.     Origin and enhancement of the black Cuban  
17          tobacco.

18          Question No. 68:

19          Q.     Have you published articles on tobacco?

20          A.     Yes.

21          Question No. 69:

22          Q.     Approximately how many?

23          A.     Should be about 50 currently.

24          Question No. 70:

25          Q.     Can you generally describe the main topics

1 that you have written about?

2 A. The results of my research which have been  
3 the ones that I have already mentioned. For example,  
4 basic research on the quantitative genetics field,  
5 results of enhancement progress, introduction of new  
6 techniques of genetic enhancement of new tobacco in  
7 Cuba, and in general, all around the topic of tobacco  
8 enhancement.

9 Question No. 71:

10 Q. Have you published any books on cigars or  
11 tobacco?

12 A. Yes.

13 Question No. 72:

14 Q. If so, what books?

15 A. The Cuban Cigar Tobacco, which was published  
16 in the U.S., also Technical Instruction for the  
17 Cultivation of Tobacco in Cuba and there's a book that  
18 I didn't see in my resume published about 1998, if I  
19 can remember well, 1998, entitled The Black Cuban  
20 Tobacco Resources Phytogetic Resources.

21 Question No. 73:

22 Q. What is the subject matter of Instructivo  
23 Tecnico para el cultivo del tabaco (Technical  
24 instruction for the cultivation of tobacco)?

25 A. The way the tobacco must be grown in Cuba for

1 the different agriculture zones.

2 Question No. 74:

3 Q. Have any of the books been published in  
4 English?

5 A. Yes, the first one.

6 Question No. 75:

7 Q. Do you recall what year Cuban Cigar Tobacco  
8 was published?

9 A. 1996.

10 Question No. 76:

11 Q. What topics does this book discuss?

12 A. This book has a general description of the  
13 whole tobacco process from the seed to the industrial  
14 work.

15 Question No. 77:

16 Q. Were you requested by the lawyers for  
17 Habanos, S.A. in the United States to provide your  
18 expert opinion in this proceeding?

19 A. Yes.

20 Question No. 78:

21 Q. Concerning what issue or issues were you  
22 asked to provide an expert opinion?

23 A. Regarding the topic of what the applicant  
24 wants to do, that we discussed at the beginning.

25 Question No. 79:

1 Q. Have you been paid a fee for providing your  
2 expert opinion in this matter?

3 A. No.

4 Question No. 80:

5 Q. Have you ever previously been retained as an  
6 expert in legal proceedings in the United States or  
7 anywhere else?

8 A. No.

9 Question No. 81:

10 Q. If yes, please describe the circumstances.

11 A. (No answer.)

12 Question No. 82:

13 Q. For purposes of preparing your expert  
14 opinion, were you advised by counsel for Habanos to  
15 assume that particular facts, as stated to you by the  
16 attorneys, are true for purposes of this proceeding?

17 A. I cannot understand the question. Repeat the  
18 question. I have to give my opinion regarding those  
19 facts assuming they are true, but I need to give my  
20 own opinion.

21 Question No. 83:

22 Q. In particular, were you told by the attorneys  
23 for Habanos that the Applicant here intends to  
24 manufacture its HAVANA CLUB labeled cigars outside of  
25 Cuba from tobacco cultivated outside of Cuba?

1 A. Yes.

2 Question No. 84:

3 Q. Were you also told by the attorneys for  
4 Habanos that the tobacco that Applicant intends to use  
5 for these cigars will be grown from tobacco seeds that  
6 Applicant claims are descended from seeds that were  
7 taken from Cuba in the late 1950's and early 1960's,  
8 and later cultivated for many generations outside of  
9 Cuba, most likely in Nicaragua?

10 A. Yes.

11 Question No. 85:

12 Q. Were you also told by the attorneys for  
13 Habanos that the Applicant has not identified the  
14 variety of tobacco seeds that it intends to use to  
15 produce the tobacco for these cigars?

16 A. Yes.

17 Question No. 86:

18 Q. Do you recall previously providing a written  
19 report of your expert opinion in this matter?

20 A. Yes.

21 Question No. 87:

22 Q. Please review the document that I am handing  
23 to you that has been marked as Espino Marrero Exhibit  
24 1. Do you recognize that document?

25 OBJECTION: As to Exhibit "1," Applicant

1 objects to the introduction of deponent's declaration  
2 as hearsay. The Rules do not provide for the  
3 introduction of declarations during the testimony  
4 period.

5 THE WITNESS: Yes.

6 Question No. 88:

7 Q. What do you recognize that document to be?

8 A. This is a written statement from me,  
9 including my resume.

10 Question No. 89:

11 Q. Does Exhibit 1 contain both a Spanish  
12 language report and a translation in English?

13 A. Yes.

14 Question No. 90:

15 Q. Please turn several pages in the Spanish  
16 language version, to the page with Paragraph 15 and a  
17 signature. Is that your signature?

18 A. Yes.

19 Question No. 91:

20 Q. Do you recall signing this document on or  
21 about August 2, 2006?

22 A. About the date, I cannot be accurate about  
23 it.

24 Question No. 92:

25 Q. Did you review this document in Spanish prior

1 to signing it?

2 A. Yes.

3 Question No. 93:

4 Q. Did you review the curriculum vitae in  
5 Spanish attached to the report prior to signing it?

6 A. Yes.

7 Question No. 94:

8 Q. The fourth page of your curriculum vitae  
9 states "Selected articles" ("Articulos  
10 seleccionados"). Have you published additional  
11 articles on tobacco in addition to those shown on your  
12 curriculum vitae?

13 A. Yes.

14 Question No. 95:

15 Q. If so, approximately how many?

16 A. Probably about ten.

17 Question No. 96:

18 Q. Were the articles that were selected for  
19 inclusion on your curriculum vitae your more  
20 significant articles?

21 A. Yes. Especially those that I appear as a  
22 main author, however, there are some that are -- that  
23 I appear as a co-author that were included because of  
24 the relevance for the topic.

25 Question No. 97:



1 Q. At the time you signed it, did you believe  
2 the statements in your expert report and curriculum  
3 vitae to be true and accurate?

4 A. Yes.

5 Question No. 98:

6 Q. At the time you signed it, did the opinions  
7 that you stated in the expert report accurately  
8 reflect the opinions that you held?

9 A. Yes.

10 Question No. 99:

11 Q. Have you recently reviewed the report and  
12 curriculum vitae in preparation for this deposition?

13 A. Yes.

14 Question No. 100:

15 Q. Are the statements in your report and  
16 curriculum vitae still true and accurate?

17 A. Yes.

18 Question No. 101:

19 Q. Do you continue to hold the same opinions  
20 that you stated in your expert report?

21 A. Yes.

22 Question No. 102:

23 Q. Are there any statements or opinions in your  
24 expert report that you would change or correct at this  
25 time?

1           A.    No.

2       Question No. 103:

3           Q.    If so, what changes or corrections would you  
4       make?

5           A.    (No answer.)

6       Question No. 104:

7           Q.    Are there any statements in the curriculum  
8       vitae that you would change or correct at this time?

9           A.    Only what I have previously mentioned that  
10      when I published this curriculum vitae, I didn't  
11      include the name of the book that was published in  
12      1998. That would be the only correction.

13      Question No. 105:

14           Q.    Have there been any additions to your  
15      curriculum vitae since August 2, 2006?

16           A.    Which do not appear here? About those ten  
17      articles that are not shown in here. In addition, it  
18      could be four or five articles that were recently  
19      published after that date.

20      Question No. 106:

21           Q.    If so, what are those additions?

22           A.    In that case, I don't believe my memory will  
23      allow me to recall those titles, but I can say they  
24      are always around genetic enhancement.

25                               (Opplier offers Espino Marrero Exhibit 1

1 in evidence.)

2 Question No. 107:

3 Q. Please look at what has been marked as  
4 Opposer's Exhibit 2. Do you recognize that document?

5 A. Yes.

6 Question No. 108:

7 Q. What do you recognize this Exhibit 2 to be?

8 A. That is part of the book published in the  
9 United States.

10 Question No. 109:

11 Q. Is this the same book indicated on your  
12 curriculum vitae as "Cuban Cigar Tobacco"?

13 A. Yes.

14 Question No. 110:

15 Q. You are the author of this book?

16 A. Yes.

17 Question No. 111:

18 Q. Were you assisted in publishing the book in  
19 English?

20 A. Yes. The translation was made.

21 (Opposer offers Espino Marrero Exhibit 2  
22 in evidence.)

23 Question No. 112:

24 Q. If you look at the photocopy of page 20 of  
25 your book, in the top left, you use the term "Habano,"

1 do you see that?

2 A. Yes.

3 Question No. 113:

4 Q. What does the term "Habano" mean in  
5 connection with cigars?

6 A. Habano is a cigar made in Cuba with 100  
7 percent Cuban tobacco.

8 Question No. 114:

9 Q. On page 21, in the lower right, you use the  
10 term "Havanas," do you see that?

11 A. Yes.

12 Question No. 115:

13 Q. What does the term "Havanas" mean in  
14 connection with cigars?

15 A. For English speaking people, that's the same  
16 word as Habano.

17 Question No. 116:

18 Q. If you look at the photocopy of page 61 of  
19 your book, in the left column you use the term  
20 "Havanas" and in the lower right column, you use the  
21 term "Habanos," do you see that?

22 A. Yes.

23 Question No. 117:

24 Q. What does the term "Habanos" mean in  
25 connection with cigars?

1           A.    I already said that.

2           Question No. 118:

3           Q.    On page 79, in the left column, you use the  
4           term "Havana cigars," do you see that?

5           A.    Yes.

6           Question No. 119:

7           Q.    What does the term "Havana cigars" mean?

8           A.    It's a synonym of Habanos.

9           Question No. 120:

10          Q.    Have you ever heard or seen the term "Havana  
11          cigars" or "Havanas" used to refer to cigars that are  
12          not made from tobacco grown in Cuba?

13          A.    No.

14          Question No. 121:

15          Q.    Is tobacco an annual crop?

16          A.    Yes.  However, I want to make a  
17          clarification.  From the botanical point of view, it  
18          is considered an annual species because it complies  
19          with its plant cycle within one year.  Now, what it  
20          wants to be known, if it is grown once a year, it can  
21          be done like that or not.  For example, in Cuba,  
22          there's only one season to plant the tobacco because  
23          if we do it out of that time, we won't have the best  
24          performance and quality.  However, in other countries  
25          such as Nicaragua, Mexico, they perform two tobacco

1 crops a year.

2 Question No. 122:

3 Q. Is Cuban-grown tobacco used for high quality,  
4 premium Cuban cigars have distinctive qualities and  
5 characteristics?

6 A. Yes.

7 Question No. 123:

8 Q. Can you describe these distinctive qualities  
9 and characteristics?

10 A. Its aroma and its flavor are specially  
11 unique.

12 Question No. 124:

13 Q. If seeds taken from Cuba in 1960 were planted  
14 in Nicaragua, and then the seeds produced from that  
15 crop were planted in the next growing season, and so  
16 on, how many generations removed from the seeds taken  
17 from Cuba would be seeds that were planted today?

18 A. If it is said that those varieties were taken  
19 out in the '60s, currently, they must have more than  
20 45 generations.

21 Question No. 125:

22 Q. Would that be true for other locations in  
23 Central America or the Caribbean?

24 OBJECTION: As to question No. 125, no  
25 proper foundation was laid for the question. No basis

1 for the deponent's answer in that he has not visited  
2 the countries he is testifying about.

3 THE WITNESS: Starting from the basis  
4 that only one production per year were made, such a  
5 seed would have more than 45 generations. For a  
6 country such as Nicaragua or Mexico, they plant two  
7 generations per year, it would have more than 90  
8 generations.

9 Question No. 126:

10 Q. In your expert opinion, does tobacco grown  
11 outside of Cuba from seeds that are many generations  
12 descended from seeds that came from Cuba, retain a  
13 meaningful relationship with the characteristics that  
14 are distinctive of Cuban tobacco?

15 OBJECTION: As to question No. 126, it  
16 lacks proper foundation in that it assumes that  
17 today's Cuban tobacco has kept the characteristics of  
18 the 1960's product, or is closer than non-Cuban grown  
19 product using seeds that are removed for the same  
20 number of generations.

21 THE WITNESS: No.

22 Question No. 127:

23 Q. In brief summary, why is that?

24 A. As I have already explained, the black Cuban  
25 tobacco is very susceptible to the interaction

1 genotype environment, meaning that when it is grown on  
2 different environments, the characteristics expression  
3 of it are different. And that brings a problem when a  
4 seed is going to be produced out of Cuba. Because a  
5 tobacco or the variety in this case does not express  
6 the characteristics it would do in Cuba. And it  
7 becomes impossible to select due to those  
8 characteristics that are expressed in Cuba. And if we  
9 add the fact that probably this selection is made by  
10 specialists who does not have a very deep knowledge of  
11 the Cuban tobacco, makes everything worse. And the  
12 result is that year after year, the variety will  
13 change from the original pattern.

14 Question No. 128:

15 Q. Would you say there is no relation at all  
16 between tobacco descended many generations from seeds  
17 that came from Cuba and Cuban grown tobacco?

18 OBJECTION: As to question No. 128, it  
19 lacks relevancy. All seeds that came from many  
20 generations of Cuban grown tobacco in the 1960's have  
21 evolved.

22 THE WITNESS: Never. It would be  
23 absolute. That doesn't mean that there's no  
24 relationship at all. Undoubtedly, there's a genetical  
25 relationship. However, in regards to the



1 organoeleptical characters and the agronomical  
2 characters in general, yes, it's going to be a  
3 difference against the original pattern.

4 Question No. 129:

5 Q. If there is some relation, what is that  
6 relation?

7 A. I already told you this. A genetical one.

8 Question No. 130:

9 Q. What are the major factors that account for  
10 the characteristics of Cuban tobacco used for high  
11 quality, premium cigars?

12 A. For my -- in my opinion, there are four main  
13 factors. First, the kind of tobacco. It has to be  
14 black Cuban tobacco. Secondly, the soil. Third, the  
15 weather, the climate. And then fourth, the men. And  
16 the men, not only as an agricultural producer, but  
17 also as an industrial worker, the one that elaborates,  
18 that manufactures the cigar. The experience that has  
19 been accrued, accumulated in Cuba, both the  
20 agricultural producers and the industrial workers,  
21 it's a very determinate factor in the quality of the  
22 tobacco. And this, along with the other three that I  
23 mentioned previously, these factors are so important  
24 that when one of these factors is missing, then you  
25 don't get the quality that distinguishes the Habano in

1 the world.

2 Question No. 131:

3 Q. Where in Cuba is the tobacco grown that is  
4 used for high quality, premium cigars?

5 A. It's grown in the Zona of Vuelta Abajo in the  
6 province of Pina Velrio (phonetic). Then the wrapper  
7 can be grown in the whole tobacco area of the island.

8 Question No. 132:

9 Q. Is the soil and climate where tobacco is  
10 grown in Nicaragua the same as in that region of Cuba?

11 A. No.

12 Question No. 133:

13 Q. Can tobacco grown elsewhere replicate the  
14 characteristics of tobacco grown in the Vuelta Abajo  
15 area of Cuba?

16 A. No.

17 Question No. 134:

18 Q. Why is that?

19 A. At the interaction of the four factors that I  
20 already mentioned.

21 Question No. 135:

22 Q. If you took tobacco seeds from the same plant  
23 grown in that part of Cuba, and planted some in that  
24 location in Cuba and some in Nicaragua, would the  
25 tobacco be different?

1           A.     Yes.

2       Question No. 136:

3           Q.     Would the cigars made from that tobacco grown  
4       in Nicaragua be different from the cigars made from  
5       the tobacco grown in Cuba?

6           A.     Yes.

7       Question No. 137:

8           Q.     Would this be true of any other country, not  
9       just Nicaragua?

10                   OBJECTION: As to question No. 137, no  
11       proper foundation was laid for the question. No basis  
12       for the deponent's answer in that he has not visited  
13       the countries he is testifying about.

14                   THE WITNESS: Yes. For every country.  
15       Because as I already explained to you, the Cuban black  
16       tobacco is very susceptible, very sensitive to the  
17       action, to the interaction, general type environment  
18       when it has been grown in a different environment, and  
19       we have to understand as environment, soil, climate  
20       and the man that cultivates it also, then it no longer  
21       has the same characteristic.

22       Question No. 138:

23           Q.     Would the differences in soil and climate  
24       conditions between Cuba and Nicaragua or elsewhere  
25       cause these differences in the quality and

1 characteristics of the tobacco to increase generation  
2 by generation?

3 A. Yes.

4 Question No. 139:

5 Q. Why or why not?

6 A. Because of what I explained to you before.

7 Question No. 140:

8 Q. Would the seed selection process differ based  
9 on where the tobacco is grown?

10 A. I already explained that in order to be able  
11 to maintain from generation to generation the  
12 distinctive characteristics of black Cuban cigar, the  
13 production of that seed has to be carried out under  
14 the general environmental conditions in which that  
15 variety is going to be grown. For example, when in  
16 Cuba, we are going to cultivate or to reproduce the  
17 seed of a variety that is going to be produced for a  
18 crop of production that in our country is being  
19 produced under a cloth, then the seeds of that  
20 variety, we have to produce it also under that  
21 condition. That is to say under cloth. If we don't  
22 do that, then we have the risk that losing little by  
23 little the characteristics of these variables.  
24 Besides, it is a very necessary factor, indispensable  
25 factor, for the specialist in charge of the

1 multiplication of this seed, being the geneticist with  
2 more knowledge and expertise about these varieties,  
3 and if it's possible, the geneticist that created that  
4 variety. Because otherwise, the distinctive  
5 characteristics are going to be vary.

6 Question No. 142:

7 Q. How does a different seed selection process,  
8 generation after generation, affect the  
9 characteristics of tobacco grown outside Cuba from  
10 seeds descended from seeds taken from Cuba, as  
11 compared to tobacco grown in Cuba based on your  
12 Institute's selection processes?

13 A. Because outside the area of our Institute  
14 that embraces all the experimental stations we have in  
15 the main tobacco zones of the country, out of those  
16 conditions, it is impossible to select by the  
17 characteristics -- by the distinctive characteristics  
18 of every variety simply because in another environment  
19 in another location, the plant is not going to express  
20 with loyalty the characteristics that it does express  
21 in the area or in the zone that we cultivated in Cuba.

22 Question No. 143:

23 Q. Why?

24 A. Because of what I have explained before.

25 Question No. 144:

1 Q. Do you have any first hand experience with  
2 what you have been describing concerning the effects  
3 of soil, climate and seed selection processes on the  
4 characteristics of tobacco grown outside Cuba from  
5 descendants of seeds that came from Cuba?

6 A. Yes.

7 Question No. 145:

8 Q. Can you describe that experience?

9 A. I've seen Cuban tobacco and the seeds were  
10 taken from Cuba before the '60s in Nicaragua, and it  
11 no longer was the original Cuban tobacco. And I am  
12 talking about the '80s. And you can imagine then and  
13 now in 2007, well, those differences are higher.

14 Question No. 146:

15 Q. In your view, do the differences in tobacco  
16 resulting from different soil, climate and selection  
17 over several generations mean that non-Cuban cigars  
18 are bad cigars, or only that they have different  
19 qualities and characteristics from Havana cigars?

20 A. I would never say that they are bad. I  
21 simply state that they are different to the Habanos.

22 Question No. 147:

23 Q. In your opinion, can cigars manufactured  
24 outside Cuba from tobacco grown outside Cuba have the  
25 same characteristics and qualities as Havana cigars?

1 A. No.

2 Question No. 148:

3 Q. Are you familiar with tobacco known as  
4 "Piloto Cubano"?

5 OBJECTION: As to question Nos. 148  
6 through 154. These questions lack relevancy and  
7 should be stricken from the record. The "Piloto  
8 Cubano" seeds are not even tangentially related to the  
9 issues in this case.

10 THE WITNESS: No.

11 Question No. 149:

12 Q. What is "Piloto Cubano"?

13 A. I understand that is a variety that is being  
14 cultivated in Dominican Republic.

15 Question No. 150:

16 Q. Where is that tobacco grown?

17 A. I already said that. I don't know if it's  
18 cultivated in other parts of the world.

19 Question No. 151:

20 Q. Is "Piloto Cubano" cultivated in Cuba today  
21 for commercial purposes?

22 A. It has never been cultivated in Cuba for  
23 commercial purposes.

24 Question No. 152:

25 Q. Was Piloto Cubano tobacco ever cultivated in

1 Cuba for commercial purposes?

2 A. No.

3 Question No. 153:

4 Q. Is it a descendant of the black tobacco grown  
5 in Cuba and used for high quality, premium cigars?

6 A. As far as I understand, no.

7 Question No. 154:

8 Q. What is the basis for your statements  
9 concerning "Piloto Cubano"?

10 A. It's a variety that I don't know.

11 Question No. 155:

12 Q. If you went into a tobacco shop outside of  
13 Cuba and purchased cigars made in Nicaragua that  
14 stated they were grown from "Cuban seed" tobacco, is  
15 there any way that you, as a tobacco expert, could  
16 verify the claim that the tobacco is grown from "Cuban  
17 seeds" by looking at, smelling, feeling or smoking the  
18 cigars?

19 OBJECTION: As to question No. 155,  
20 there is no foundation. The witness has not stated  
21 whether he is a cigar connoisseur.

22 THE WITNESS: No.

23 Question No. 156:

24 Q. To your knowledge, would an ordinary cigar  
25 consumer have any way of knowing if non-Cuban cigars



1 that are claimed to be made from "Cuban Seed tobacco,"  
2 are in fact made from tobacco grown from seeds that  
3 are descended from seeds from Cuba?

4 OBJECTION: As to question No. 156,  
5 there is no foundation for qualifying the witness as a  
6 market expert or what consumers (in other  
7 jurisdictions where he is not acquainted with consumer  
8 behavior) will do.

9 THE WITNESS: No. In reality, they have  
10 no way to know that.

11 Question No. 157:

12 Q. Were you previously given a copy of any of  
13 the questions that have been asked here today?

14 A. No.

15 Question No. 158:

16 Q. Were you previously shown any of the  
17 questions that have been asked here today?

18 A. No.

19 Question No. 159:

20 Q. Were you previously told orally what any of  
21 the questions would be here today, even if you were  
22 not shown the questions?

23 A. No.

24 Question No. 160:

25 Q. Did you have any discussions in preparation

1 for this deposition with anyone other than the  
2 attorneys for Habanos?

3 A. No.

4 APPLICANT'S CROSS WRITTEN QUESTIONS

5 (Opposer objects to Applicant's objections to the  
6 extent that they constitute legal argument and  
7 assertions of fact, and not objections.)

8 Question No. 1:

9 Q. On page 79 of Exhibit "2" of your direct  
10 examination, you use "Havana cigars" and "Habanos  
11 cigars." Are they interchangeable terms?

12 A. Yes.

13 Question No. 2:

14 Q. Describe what empirical data have you relied  
15 on to support the answers to Opposer's direct  
16 questions?

17 OBJECTION: Objection to the form, vague  
18 and overbroad.

19 THE WITNESS: In my 37 years that I have  
20 been working in this field of genetic enhancement and  
21 in all issues related with tobacco industry in Cuba,  
22 allow me to respond to the questions that I have been  
23 asked.

24 Question No. 3:

25 Q. Do you have any experience purchasing raw

1 tobacco leaves in Central America?

2 A. I don't buy tobacco. I am not a buyer of  
3 tobacco.

4 Question No. 4:

5 Q. Do you have any experience in marketing?

6 A. No.

7 Question No. 5:

8 Q. Do you have any experience in marketing in  
9 the tobacco industry? If so describe how you gained  
10 this experience.

11 OBJECTION: Objection, relevance.

12 THE WITNESS: No.

13 Question No. 6:

14 Q. Do you know of the existence of a trademark  
15 for Cuban cigars that uses the words HAVANA CLUB?

16 OBJECTION: Objection to the extent it  
17 calls for a legal conclusion.

18 THE WITNESS: No.

19 Question No. 7:

20 Q. What do the words HAVANA CLUB mean to you?

21 A. Nothing?

22 Question No. 8:

23 Q. Is there a rum labeled HAVANA CLUB?

24 A. In Cuba, it is with a B.

25 Question No. 9:

1 Q. Do the words HAVANA CLUB denote a geographic  
2 area in Cuba? If so, in what province and  
3 municipality?

4 A. In reality, the word, the term Havana, in the  
5 English language is related with a geographic zone.  
6 It is related with the province of La Havana, in fact,  
7 with Cuba.

8 Question No. 10:

9 Q. What information did you rely upon to answer  
10 question No. 156?

11 A. There is no chemical way or biochemical way  
12 that allows to identify if a cigar has seeds or leaf  
13 from Cuba or not.

14 Question No. 11:

15 Q. To your knowledge, would an ordinary cigar  
16 consumer have any way of knowing if non-Cuban cigars  
17 that are claimed to be made from "non-Cuban seeds,"  
18 are in fact made from tobacco grown from seeds that  
19 did not descend from seeds from Cuba?

20 OBJECTION: Objection to the form; lack  
21 of foundation, assumes facts not in evidence.

22 THE WITNESS: No.

23 Question No. 12:

24 Q. Have you visited all regions where cigars are  
25 produced in order to ascertain that it is impossible

1 to equal or exceed the quality of Cuban cigars? If  
2 so, please list those areas that you have visited to  
3 arrive at this conclusion.

4 OBJECTION: Objection to the form,  
5 compound, vague; objection, relevance;  
6 mischaracterizes deponent's expert testimony.

7 THE WITNESS: Do I have to answer? I  
8 haven't visited all the countries that produce cigars.  
9 I have only visited Nicaragua, Brazil, Mexico. No.  
10 Question No. 13:

11 Q. Do you know what penalties are imposed for  
12 perjury in the United States?

13 OBJECTION: Objection to the extent it  
14 calls for a legal conclusion.

15 THE WITNESS: No.  
16 Question No. 14:

17 Q. Do you feel that you are subject to, or  
18 affected by, in any way to the perjury laws of the  
19 United States?

20 A. I guess so.

21 Question No. 15:

22 Q. Do you know what Connecticut wrapper is?

23 A. Yes.

24 Question No. 16:

25 Q. Does all the Connecticut wrapper used in

1 Cigars?

2 OBJECTION: Objection to the form.

3 THE WITNESS: I don't know what you mean  
4 by this question.

5 Question No. 17:

6 Q. Do you contend that it is likely to deceive  
7 the U.S. Consumer if a seller advertises its cigars as  
8 having Connecticut wrapper when it is not produced in  
9 Connecticut?

10 OBJECTION: Objection, relevance.

11 THE WITNESS: I am not a specialist in  
12 tobacco in Connecticut tobacco.

13 Question No. 18:

14 Q. Are you aware of any attempts to reproduce  
15 the characteristics of the Cuban seed tobacco in  
16 countries other than Cuba?

17 OBJECTION: Objection, vague as to what  
18 Applicant is referring to as "the Cuban seed tobacco."

19 THE WITNESS: Yes. The answer is yes.

20 Question No. 19:

21 Q. Please describe such attempts and the  
22 countries where they took place.

23 OBJECTION: See Objection to Question  
24 18.

25 THE WITNESS: When the Cuban revolution

1 won, some tobacco growers immigrate to other  
2 countries, for example, Nicaragua, Honduras, Dominican  
3 Republic and then they took the original Cuban  
4 cigarette with them, they took also technology with  
5 them, however, they could not take with them neither  
6 the soil or the climate and they haven't been able to  
7 produce Cuban tobacco in those places.

8 OPPOSER'S REDIRECT WRITTEN QUESTIONS

9 (Applicant's General Objections to Opposer's Redirect  
Written Questions)

10  
11 1. Applicant objects to this witness' opinion as an  
12 expert and his testimony other than his personal  
13 knowledge. In particular, applicant objects to all  
14 hearsay statements and moves to strike them from the  
15 records.

16 2. Additionally, the witness has not been qualified  
17 as a witness, nor has Opposer offered the witness as  
18 an expert. At the very least, the witness' testimony  
19 is not sufficient to qualify him as an expert for  
20 matters relating to the tobacco industry outside Cuba.

21 3. Applicant objects to redirect questions Nos. 7  
22 and 8 as being leading questions.

23 Question No. 1:

24 Q. Earlier, you testified that tobacco is an  
25 annual crop. Is that true generally for the tobacco

1 growing areas in Central America and the Caribbean?

2 A. At that time, I clarified that from the  
3 botanics perspective, tobacco is an annual crop,  
4 however, that doesn't mean that you cannot get two  
5 crops in one year. There are countries, as I already  
6 mentioned, like Nicaragua and Mexico that get two  
7 crops of tobacco a year.

8 Question No. 2:

9 Q. Do you need to visit each country in that  
10 region to know that tobacco is an annual crop in that  
11 region?

12 A. In the regions that I have visited, I already  
13 know if they have one crop or two crops per year. In  
14 the countries that I haven't visited, of course I  
15 don't know that.

16 Question No. 3:

17 Q. Why is that?

18 A. In the specific case of Cuba, we do only one  
19 crop per year because as I already mentioned, if we  
20 cultivate tobacco in the no ideal era or time, then we  
21 are not going to get the exquisite quality of the  
22 Cuban tobacco, neither the yield. In other countries,  
23 maybe where the quality of their tobacco allows them  
24 or the climatic and the soil conditions allow them to  
25 do that well, they can have two crops a year.



1 Question No. 4:

2 Q. Do you need physically to visit a country to  
3 know that cigars made from tobacco grown in that  
4 country will be different than cigars made from  
5 tobacco grown in Cuba, even if seeds from the same  
6 plant are used?

7 A. No.

8 Question No. 5:

9 Q. Why is that?

10 A. As I have already explained, I have full  
11 knowledge that the black Cuban tobacco only expresses  
12 its distinctive characteristics when it's cultivated  
13 in Cuba by Cuban producers.

14 Question No. 6:

15 Q. In responding to any of the questions earlier  
16 today, were you claiming to testify as an expert in  
17 marketing?

18 A. No.

19 Question No. 7:

20 Q. What is the basis of your earlier testimony  
21 in response to Direct Question No. 155 as to whether  
22 there is any way that you, as a tobacco expert, could  
23 verify a claim that a cigar made in Nicaragua and  
24 claimed to be made from "Cuban Seed tobacco" is in  
25 fact made from tobacco grown from seeds that are

1 descended from seeds from Cuba?

2 A. I already explained for you.

3 Question No. 8:

4 Q. What is the basis of your earlier testimony  
5 in response to Direct Question No. 156 as to whether  
6 an ordinary cigar consumer would have any way of  
7 knowing if non-Cuban cigars that are claimed to be  
8 made from "Cuban Seed tobacco" are in fact made from  
9 tobacco grown from seeds that are descended from seeds  
10 from Cuba?

11 A. I already explained that before.

12 APPLICANT'S RECROSS WRITTEN QUESTIONS

13 Question No. 1:

14 Q. What is the support for your answer to  
15 Opposer's Redirect question No. 1 that you have relied  
16 on?

17 A. I have already explained that.

18 Question No. 2:

19 Q. If you were to visit the different countries  
20 that you have testified about, would you be in a  
21 better position to verify what you have testified  
22 about?

23 A. No.

24 Question No. 3:

25 Q. How does the soil and climate conditions

1 affect the tobacco grown in the different countries  
2 that you have testified about?

3 A. To give an answer to that question, I would  
4 have to be a soil specialist and I am not. But what I  
5 can tell you is when we grow our own varieties on  
6 different soils, even within Cuba itself, they have a  
7 different response to those environments.

8 Question No. 4:

9 Q. Have you ever visited Nicaragua?

10 A. Yes.

11 Question No. 5:

12 Q. Have you inspected Applicant's cigar samples?

13 A. No. I understand the Applicant didn't leave  
14 the samples.

15 (Deposition on written questions  
16 concluded at 2:28.)

17 \* \* \* \* \*

CHANGES AND SIGNATURE

RE: CORPORACION HABANOS, S.A. VS. ANNCAS, INC.

PAGE	LINE	CHANGE	REASON
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1 I, EUMELIO ESPINO MARRERO, have read the foregoing  
2 deposition and hereby affix my signature that same is  
3 true and correct, except as noted above.  
4  
5

6 \_\_\_\_\_  
EUMELIO ESPINO MARRERO,  
7 Witness  
8

9 -----  
THE STATE OF \_\_\_\_\_)  
10 COUNTY OF \_\_\_\_\_)  
11

12 Before me, \_\_\_\_\_, on this day  
13 personally appeared EUMELIO ESPINO MARRERO, known to  
14 me (or proved to me under oath or through  
15 \_\_\_\_\_ (description of identity card or  
16 other document) to be the person whose name is  
17 subscribed to the foregoing instrument and  
18 acknowledged to me that they executed the same for the  
19 purposes and consideration therein expressed.

20 Given under my hand and seal of office this  
21 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
22  
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24 \_\_\_\_\_  
NOTARY PUBLIC IN AND FOR THE  
STATE OF \_\_\_\_\_  
25 COMMISSION EXPIRES: \_\_\_\_\_

TRADEMARK  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Application

Serial No. 78/363024

Filed February 5, 2004

For the mark HAVANA CLUB

Published in the Official

Gazette on December 14, 2004

CORPORACION HABANOS, S.A.,

Opposer,

v.

ANNCAS, INC.,

Applicant.

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) Opposition No. 91165519

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CERTIFICATE FROM THE  
DEPOSITION ON WRITTEN QUESTIONS  
OF EUMELIO ESPINO MARRERO

MAY 15, 2007

I, MONIQUE M. HINCHCLIFF, a Certified Shorthand  
Reporter in and for the State of Texas, do hereby  
certify that the foregoing deposition on written  
questions is a full, true and correct transcript;

That the foregoing deposition on written questions  
of EUMELIO ESPINO MARRERO, the Witness, hereinbefore  
named was at the time named, taken by me in  
stenograph, on May 15, 2007, the said Witness having  
been by me first duly cautioned and sworn to tell the

1 truth, the whole truth, and nothing but the truth, and  
2 the same were thereafter reduced to typewriting by me  
3 or under my direction.

4 I further certify that I am neither counsel for,  
5 related to, nor employed by any of the parties or  
6 attorneys in the action in which this proceeding was  
7 taken, and further that I am not financially or  
8 otherwise interested in the outcome of the action.

9 WITNESS MY HAND, this the 20 day of  
10 June, A.D., 2007.

11  
12  
13   
MONIQUE M. HINCHCLIFF

14 Texas CSR 6199

15 Expiration Date: 12/31/07

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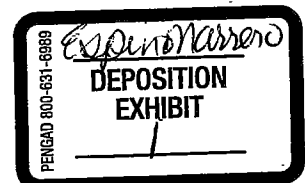
**Declaration of Translation  
Of Declaration of Eumelio Espino Marrero**

Debra Evenson declares under penalty of perjury under the laws of the United States that the following is true and correct:

1. I am a lawyer, licensed to practice law in the State of New York, and am of counsel to the law firm Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C. I was professor of law at DePaul University School of Law from 1980-1993 where I taught comparative international law. I am fluent in the Spanish language.
2. I translated the Declaration of Eumelio Espino Marrero, signed on August 2, 2006, and his Curriculum Vitae. I attach hereto a copy of the original documents in Spanish and the translation thereof which is a true and correct translation into English.
3. Because of the exigencies of time, I am sending a scanned copy of this signed declaration by email and will send the original signed declaration by express courier.

Signed this 3<sup>rd</sup> day of August of 2006

  
\_\_\_\_\_  
DEBRA EVENSON



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEALS BOARD**

In the matter of Trademark Application  
Serial No. 78/363024  
Filed February 5, 2004  
For the mark HAVANA CLUB  
Published in the *Official Gazette* on December 14, 2004

CORPORACION HABANOS, S.A.,	)	
	)	
Opposer,	)	Opposition No. 91165519
	)	
v.	)	
	)	
ANNCAS, INC.,	)	
	)	
Applicant.	)	
	)	

**DECLARACION DE EUMELIO ESPINO MARRERO**

Yo, Eumelio Espino Marrero, declaro lo siguiente:

1. Soy Sub Director Técnico Productivo del Instituto Cubano de Investigación de Tabaco, y ciudadano cubano, con residencia en Avenida 53, No. 6602, c/66 y 68, San Antonio de los Baños, Provincia La Habana, Cuba. Los abogados de Habanos, S.A., empresa cubana y Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C., me han solicitado mi opinión como experto en el asunto titulado arriba, relacionado con la afirmación del Solicitante hecha en la Oficina de Marcas y Patentes de los Estados Unidos, que sus tabacos que llevarán la etiqueta HAVANA CLUB, serán “confeccionados a partir de semilla de tabaco cubano”.

2. No es práctica en Cuba recibir honorarios para proporcionar un informe de experto y presento la Declaración siguiente sin cobrar. Nunca he sido anteriormente contratado como perito en un proceso legal en los Estados Unidos o en alguna otra parte.

3. Mi padre fue productor de tabaco y posteriormente se desempeñó como especialista en la fase pre-industrial del tabaco y finalmente como torcedor, lo que hace que mi relación con este cultivo sea prácticamente desde mi nacimiento. Desde 1970, he trabajado en el desarrollo y mejoramiento genético de la semilla de tabaco para los puros cubanos, es decir, los puros fabricados en Cuba con tabaco cien por cien cultivado y procesado en Cuba. Actualmente el 100% de las variedades que se cultivan en Cuba para estos fines han sido obtenidas por mi equipo de trabajo.

A partir del 2001 paso a desempeñar la responsabilidad de Sub-Director Técnico Productivo del Instituto de Investigaciones del Tabaco, que implica el asesoramiento técnico de todos los productores agrícolas y la introducción de nuevas tecnologías y productos en la práctica productiva del tabaco.

4. Recibí mi Maestría en Ciencias Biológicas con mención en Genética Vegetal en la escuela de Biología de la Universidad de la Habana en 1996. Mi tesis abarcó el tema del mejoramiento genético del tabaco. Soy reconocido como experto en el tabaco cubano y como consecuencia he sido invitado a brindar asistencia técnica a cultivadores de tabaco en México, Brasil y Nicaragua. También me han invitado para impartir conferencias magistrales y participar en eventos y proyectos de investigación por todo el mundo sobre el desarrollo de variedades de tabaco, incluyendo Francia, Inglaterra, México, Japón, Canadá, Nicaragua, Italia, Suiza y en la antigua Unión Soviética. En 1995, impartí una conferencia en Rutgers University en New Jersey sobre "El origen y desarrollo de tabaco

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en Cuba." Además, he publicado más de 50 artículos sobre tabaco cubano y la genética de las variedades de tabaco. Mi libro *The Cuban Cigar*, se publicó en los Estados Unidos en 1996. Una copia de mi Curriculum Vitae está adjunta a este Informe. Como resultado de mis viajes, investigaciones, experiencia y contactos, no soy solamente un experto en la genética de tabaco cubano, sino también tengo mucho conocimiento sobre tabaco cultivado fuera de Cuba para la producción de puros, particularmente en México, Nicaragua y Brasil.

Basado en mi conocimiento y experiencia profesional, emito la opinión experta que sigue:

He sido informado que el solicitante en este proceso, ha afirmado que sus tabacos, a los cuales pretende poner la etiqueta HAVANA CLUB, serán confeccionados con tabaco cultivado fuera de Cuba a partir de semillas que el solicitante afirma ser descendientes de semillas traídas de Cuba aproximadamente en el año 1960, y luego cultivadas por muchas generaciones fuera de Cuba, aparentemente en Nicaragua. También tengo entendido que el solicitante no ha identificado la variedad de semillas de tabaco que pretende utilizar para producir el tabaco a utilizar en dichos puros. Como el tabaco es un cultivo anual y presumiendo que los puros del solicitante serán fabricados con tabaco cultivado de dichas semillas, como se afirma, el tabaco cultivado hoy en día sería aproximadamente 45 generaciones de distancia de las semillas originales que se afirman haber sido traídas de Cuba aproximadamente en 1960.

5. En mi opinión como experto, el tabaco cultivado fuera de Cuba con semillas como las que el solicitante afirma que se van a cultivar, no preserva una relación significativa con las características distintivas del tabaco de cubano, mundialmente

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esta semilla es realizada por un personal técnico no totalmente identificado con las características de la variedad original, nunca podrá preservar en las generaciones sucesivas de multiplicación, las características distintivas de esta variedad original.

9. Desde el principio de los 60, métodos específicos han sido implementados en Cuba a nivel nacional para garantizar la preservación de las características genéticas de cada variedad de tabaco utilizado para fabricar los puros cubanos. Bajo este programa, la producción de las semillas de tabaco está controlada por el Instituto de Investigaciones de Tabaco según procedimientos estrictos. Todas las fases de selección y producción de la semilla Original y Básica son realizados por un genetista calificado para garantizar la perpetuación de las características genéticas de las variedades. La producción de las semillas para el uso comercial se realiza en fincas especialmente diseñadas y creadas para estos fines, bajo el control técnico del Instituto de Investigación del Tabaco.

10. La tripa y el capote utilizados para hacer puros cubanos de altísima calidad, se cultivan en la región conocida como "Vuelta Abajo" en la provincia del Pinar del Río. Esta región se caracteriza por su suelo y las condiciones climáticas que garantizan la expresión en el tabaco cubano de las características organolépticas (calidad) que lo diferencian de cualquier otro tabaco producido en otras partes del mundo, incluyendo la propia Cuba. Es decir, tabaco cubano producido en cualquier otra parte de Cuba, que no sea la zona de Vuelta Abajo, no puede ser utilizado como tripa y capote de los puros cubanos de mayor renombre, porque sus características organolépticas no responden al patrón de estos puros.

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11. Como consecuencia de estos factores, el tabaco producido en Nicaragua o cualquier otro país, a partir de semilla original cubana, aún en la primera generación, será diferente al tabaco producido en Cuba con la misma semilla.

12. Repito, sin comentar sobre la calidad del tabaco no cubano o los puros fabricados de este tabaco y los métodos empleados para la producción de semilla en cada país, las semillas generadas en generaciones sucesivas de multiplicación fuera de Cuba, no mostrarán las mismas características genéticas de la semilla original, porque son producidas y seleccionadas bajo condiciones diferentes a las de Cuba. Con cada generación, habrá mayor deterioro genético de la semilla original y por tanto, la calidad y características del tabaco producido a partir de estas semillas, será cada vez más diferente del tabaco producido a partir de la semilla original. Por ejemplo, cuando estuve en Nicaragua en la década de los 80, pude apreciar que el tabaco producido con la semilla de la variedad Corojo multiplicada a partir de la semilla original cubana, no mostraba las mismas características organolépticas del Corojo cultivado en Cuba.

13. Por lo tanto, desde el punto de vista de un agrónomo o genetista, no hay una conexión significativa o relevante entre el tabaco cubano cultivado en Cuba y el tabaco que se produzca a partir de semilla originalmente cubana, pero cultivada fuera de Cuba y mucho menos, después de 45 generaciones posteriores a la salida de esa semilla de Cuba.

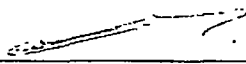
14. No existe un análisis de ADN o prueba bioquímica para mostrar si una semilla obtenida fuera de Cuba por x generaciones se diferencia genéticamente de la semilla original, sin embargo, mediante pruebas comparativas realizadas en igualdad de condiciones, donde se evalúe las características fenotípicas y organolépticas, si son capaces de detectar las diferencias que puedan existir entre estos dos tipos de semillas.

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15. Otro caso que se puede dar, y tender a confundir a los no expertos, es la afirmación de que variedades que llevan un nombre relacionado con Cuba, como por ejemplo "Piloto Cubano" cultivado fundamentalmente en la República Dominicana, se puede producir un tabaco con similares características al cubano. En estos casos la diferencia aún es mayor, porque por lo regular estas variedades no tienen ningún vínculo genético con el tipo de tabaco negro cubano. Tal es el caso del mencionado "Piloto Cubano", que nunca se cultivó en Cuba con fines comerciales y que las pruebas realizadas en estudios comparativos con las variedades cubanas, han podido demostrar que es un tabaco totalmente diferente al cubano.

Declaro bajo pena de perjurio bajo las leyes de los Estados Unidos de América que lo anterior es verdad y correcto hasta que yo sepa y creo.

Fechada el día 2 de agosto de 2006  
La Habana, Cuba



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Eumelio Espino Marrero

## CURRICULUM VITAE

Eumelio Miguel Espino Marrero

Residencia: Avenida 53, No. 6602  
E/ 66 and 68  
San Antonio de los Baños  
Havana Province, Cuba

### Empleo

2000- la fecha Sub-Director Técnico Productivo  
Instituto de Investigaciones del Tabaco  
Cuba

1985-la fecha Sub-Director Investigación Científica  
Instituto de Investigaciones del Tabaco  
Cuba

1970-1985 Jefe del Programa de Mejoramiento Genético del Tabaco  
Instituto de Investigaciones del Tabaco  
Cuba

### Estudios

#### Diplomas

1996 Maestría en Ciencia, Universidad de la Habana, Escuela de Ciencias  
Biológicas  
Tesis: El mejoramiento de genético de semillas de tabaco

1985 Licenciado en Ingeniería, Escuela de Agronomía de la Universidad de la  
Habana.

#### Cursos Especializados

1997 Genética vegetal, Universidad de la Habana, Escuela de Biología.

1988 Diseño experimental, Instituto de investigación de Cítricos y Frutas,  
Ministerio de Agricultura

1982 Mejoramiento Genético del Tabaco, Instituto del Tabaco de Bergerac,  
Francia.

1977 Genética Cuantitativa, Instituto Nacional de Ciencia Agrícola.



1969-73      Cursos avanzados en biología y genética vegetal, Universidad de la Habana, Escuela de Biología.

### **Investigaciones**

Resultados obtenidos de las Investigaciones realizados en el Instituto de Investigaciones: nuevas variedades de tabaco, por ejemplo Tabaco Negro “Escambray-70”, “Habana-92”, “Habana-2000”, y “Habana Vuelta Arriba”.

Además, las investigaciones han incluido:

- Aplicación del método haploide-diploide en el mejoramiento del tabaco
- Parámetros genéticos-estadísticos, información básica para el mejoramiento.
- Metodología para la evaluación del Banco de Germoplasma
- Metodología para la producción de semilla.
- Análogos Androesteriles

### **Experiencia Internacional**

- 1971      Suiza: Participar en la reunión del ISO de estandarización de métodos y técnicas empleadas en investigaciones del tabaco.
- 1971      Italia: Participar en la reunión de CORESTA y observar la aplicación práctica de técnicas de “cultivos de haploides”.
- 1972      Canadá: Tobacco Research Station, Delhi, Ontario. Intercambio de experiencias técnicas empleados en la investigación y producción del tabaco.
- 1973      Japón: Conocer la organización y métodos generales empleados en el mejoramiento del tabaco en la Corporación del Tabaco y Sal.
- 1975-76      México: Entrenar técnicos del cultivo “in vitro” de anteras. TABAMEX
- 1980      Nicaragua: Asesoramiento técnico. Instituto Nicaragüense de Reforma Agraria.
- 1981      Nicaragua: Asesoramiento técnico. Instituto Nicaragüense de Reforma Agraria.
- 1981      URSS: Estudiar las técnicas y métodos empleados en la URSS en el mejoramiento del tabaco. Instituto de Mejoramiento del Tabaco de Majorka.
- 1982      Francia: Recibir un adiestramiento sobre el mejoramiento de la resistencia al moho azul en tabaco.

- 1984            Canadá: Intercambio actualizado sobre aspectos de investigación del tabaco. Tobacco Research Station Delhi, Ontario.
- 1990            Nicaragua: Asesoramiento técnico a Estación Experimental del Tabaco de Estelí.
- 1995            Estados Unidos: Impartir una conferencia sobre el mejoramiento genético del tabaco en Cuba. Universidad de Rutgers, New Jersey.
- 1995            Inglaterra: Presentar ponencia. Reunión Internacional del Grupo Agrophyto (CORESTA)
- 1996-la fecha México: Asesoramiento técnico a la compañía ASAGRE.
- 1997            México: Presentar ponencia sobre Mejoramiento Genético. Gorl Xigar Symposium
- 1997            Suiza: Presentar ponencia. Congreso de CORESTA.
- 1998-2004      Brasil: Asesoramiento técnico a la compañía DANCO.
- 1998            Argentina: Intercambio técnico sobre mejoramiento del tabaco. Cooperativa tabacalera Tucumán.
- 1999            Brasil: Intercambio técnico., Souza-Cruz
- 2003            España: Intercambio técnico, CETARSA

### **Investigaciones Conjuntas**

Instituto de Reforma Agraria, Nicaragua: 1981, 1982

Estación Experimental del Tobacco, Estelí, Nicaragua: 1984, 1985, 1987, 1988, 1989, 1990

Instituto de Investigaciones de Bergerac, Francia: 1984, 1986, 1988

Instituto de Investigaciones de Krasnodar, URSS: 1986, 1989

### **Publicaciones seleccionadas**

#### **Libros**

*Cuban Cigar Tobacco: Why Cuban Cigars are the World's Best* (New Jersey: T.F.H. Publications) 1996.

*Instructivo Técnico para el cultivo del tabaco* (Ministerio de Agricultura, La Habana, Havana, Cuba) 1998.

#### Artículos seleccionados

“El cultivo ‘in vitro’: Nueva perspectiva en el mejoramiento del tabaco en Cuba”, *Agrotecnia de Cuba*, 1974.

“Ensayo comparativo entre dos líneas de la variedad Corojo”, *Cubatabaco*, 1975.

“Componentes de la varianza en pruebas de variedades de tabaco negro”, *Agrotecnia de Cuba*, 1975

“Evaluación de variedades de tabaco rubio en Pruebas de Concursantes”, *Cubatabaco*, 1975.

“Evaluación de variedades de tabaco Burley”, *Cubatabaco*, 1976.

“Análisis dialéctico de algunos caracteres cuantitativos en variedades de tabaco negro”, *Agrotecnia de Cuba*, 1976.

“Efecto de la interacción genotipo-ambiente, en la composición química del tabaco negro cubano (N. tabaco L.), *Agrotecnia de Cuba*, 1976.

“Correlación fenotípica entre caracteres del tabaco negro cubano (N. tabacum), *Agrotecnia de Cuba*. 1977.

“Uso de la androgenesis en el mejoramiento genético del tabaco negro cubano (N. tabacum L.), *Agrotecnia de Cuba*, 1978.

“Componentes de la varianza y estabilidad fenotípica en variedades de tabaco rubio (N. Tabacum L.), *Ciencia técnica de la Agricultura*, 1980.

“Análisis de la variación cuantitativa en variedades de tabaco rubio (N. Tabacum L.), *Ciencia técnica de la Agricultura*, 1980.

“Escambray-70: Nueva variedad de tabaco negro para cultivo al sol, *Ciencia técnica de la Agricultura*, 1980.

“Características y aspectos fitotécnicos de la variedad de tabaco negro ‘Escambray-70’” *Ciencia técnica de la Agricultura*, 1980.

“Algunas características de las variedades de tabaco (N. Tabacum) cultivadas en Cuba”, folleto publicado por el Centro de Investigación y desarrollo Agrícola CIDA), Ministerio de Agricultura de Cuba, 1980.

“Efecto de diferentes factores ambientales sobre el comportamiento de las variedades de tabaco negro cubanas”, *Agrotecnia de Cuba*, 1984.

“Nuevas variedades de tabaco Burley con posibilidades comerciales en Cuba”, *Ciencia técnica de la Agricultura*, 1984.

“Obtención de nuevas variedades de tabaco rubio”, *Ciencia técnica de la Agricultura*, 1985.

“Obtención de análogos androesteriles de variedades de tabaco cubano (n. tabacum), *Ciencia técnica de la Agricultura*, 1985.

“Nuevas variedades de tabaco negro para cultiva bajo tela resistente al moho azul (P. tabacina), *Agrotecnia de Cuba*, 1987.

“Obtención de fuentes de resistencia múltiple en el tabaco negro cubano”, *Ciencia técnica de la Agricultura*, 1988.

“Evaluación de variedades de tabaco ante la infección del fuego salvaje y el moho azul en las condiciones de la URSS”, *Ciencia técnica de la Agricultura*, 1988.

“Evaluación integral de la variedad ‘Corojo Especial’ (Habana 7.5.1.) como productora de capa”, *Agrotecnia de Cuba*, 1989.

“Haban P.R.: Nueva variedad de tabaco negro (N. tabacum L.) con resistencia múltiple y buenas características comerciales”, *Agrotecnia de Cuba*, 1989.

“Resultados de ocho años de colaboración franco-cubana en el mejoramiento genético del tabaco”, *Cubatabaco*, 1991.

“Origen y mejoramiento del tabaco negro cubano”, *Tobacco Journal Internacional*, 1993.

“Dos nuevas variedades de tabaco negro para cultivo bajo tela resistentes al moho azul”, *Cultivos Agroindustriales*, 1994.

“Nuevas variedades de tabaco resistentes al moho azul obtenidas en la Est. Exp. De Tabaco de Cabaiguán”, *Infociencia*, 1996.

“Determinación de la altura de desbotonado y método de cosecha en la variedad de tabaco Habana-92”, *Infociencia*, 1996.

“Caracterización biométrica de híbridos inter específicos y progenitores del género *Nicotiana*”, *Revista Biología*, Vol 11 (1997), pp. 71-80.

“Habana-92 y ‘Habana-2000’: Dos nuevas variedades de tabaco negro cubano resistentes al moho azul (*P. tabacina* Adam)”, *Revista Cubana Agricultura*, Vol. 1, No. 1 1998.

“Nueva variedad de tabaco negro resistentes al moho azul (*P. tabacina*) para cultivo en las provincias centrales y orientales”, *Cubatabaco*, 1998.

“Habana Vuelta Arriba: Variedad de tabaco negro para cultivo en la región central y oriental de Cuba”, *Cubatabaco*, 1999.

“Comportamiento en la zona central del país de las variedades resistentes al moho azul”, *Cubatabaco*, 2002.

“Manual práctico del Supervisor Agrícola”, 1ro edición, 2002, 2do edición 2006.

“Nuevas líneas de tabaco negro resistentes al moho azul”, *Cubatabaco*, 2003.

“Evaluación de la resistencia a enfermedades en tabaco negro”, *Cubatabaco*, 2003.

“Incorporación de la EMC en las variedades Habana-92 y Habana-2000”, *Cubatabaco*, 2004.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEALS BOARD**

In the matter of Trademark Application  
Serial No. 78/363024  
Filed February 5, 2004  
For the mark HAVANA CLUB  
Published in the *Official Gazette* on December 14, 2004

<hr/>	)	
CORPORACION HABANOS, S.A.,	)	
	)	
Opposer,	)	Opposition No. 91165519
	)	
v.	)	
	)	
ANNCAS, INC.,	)	
	)	
Applicant.	)	
<hr/>	)	

**DECLARATION OF EUMELIO ESPINO MARRERO**

I, Eumelio Espino Marrero, state as follows:

1. I am the Vice Director of Technical Production of the Cuban Institute of Tobacco Research, and a Cuban citizen, residing at Avenida 53, No. 6602, e/66 and 68, San Antonio de los Baños, Havana Province, Cuba. I have been requested by the American lawyers for Habanos, S.A, a Cuban enterprise -- Rabinowitz, Boudin, Standard, Krinsky & Lieberman, P.C. -- to provide my expert opinion in the above-captioned matter concerning the Applicant's claim in the United States Patent and Trademark Office that its proposed HAVANA CLUB-labeled cigars will be "made from Cuban seed tobacco."
2. It is not the practice in Cuba to receive fees for providing an expert report, and I submit the following Declaration without charge. I have never previously been retained as an expert witness in legal proceedings in the United States or elsewhere.

3. My father was a tobacco grower and later worked as a specialist in the pre-industrial phase of tobacco production and finally as a cigar roller, which means that I have had a relationship to this plant practically since the time I was born. Since 1970, I have worked in the development and genetic improvement of tobacco seed for Cuban cigars, that is, the cigars manufactured in Cuba from 100% tobacco grown and processed in Cuba. Currently, 100% of the varieties cultivated in Cuba for this purpose have been obtained by my work team. Since 2001, I have assumed the responsibility of Vice Director of Technical Production of the Institute of Tobacco Research, which involves providing technical assistance to all the agricultural producers and the introduction of new technologies and products for tobacco production.

4. I received my Masters degree in Biological Sciences with a specialty in Plant Genetics from the School of Biology of the University of Havana in 1996. My theses dealt with the subject of the genetic improvement of tobacco. I am a recognized expert on Cuban tobacco and, as a result, have been invited to provide technical assistance to cultivators of tobacco in Mexico, Brazil and Nicaragua. I have also been invited to give master lectures and to participate in events and research projects all over the world on the development of varieties of tobacco, including in France, England, Mexico, Japan, Canada, Nicaragua, Italy, Switzerland and the former Soviet Union. In 1995, I gave a lecture at Rutgers University in New Jersey on "The origin and development of tobacco in Cuba." In addition, I have published more than 50 articles on Cuban tobacco and the genetics of varieties of tobacco. My book, *The Cuban Cigar*, was published in the United States in 1996. A copy of my Curriculum Vitae is attached to this Report. As a result of my travel, research, experience and contacts, I am not only an expert on the genetics of

Cuban tobacco, but I also have considerable knowledge of tobacco cultivated outside of Cuba for the production of cigars, particularly in Mexico, Nicaragua and Brazil.

Based on my professional knowledge and experience, I issue the following expert opinion:

I have been informed that the applicant in this proceeding has claimed that its cigars, to which it intends to attach the label HAVANA CLUB, will be made from tobacco cultivated outside of Cuba from seeds that the applicant claims are descendants of seeds taken from Cuba in about 1960, and later cultivated for many generations outside of Cuba, apparently in Nicaragua. I also understand that the applicant has not identified the variety of tobacco seeds it intends to use to produce the tobacco for said cigars. Since tobacco is an annual crop, and assuming that applicant's cigars will be made from tobacco cultivated from said seeds, as it claims, the tobacco cultivated today will be approximately 45 generations removed from the original seeds that it claims were taken from Cuba in about 1960.

5. In my expert opinion, tobacco grown outside of Cuba from seeds such as applicant claims it will cultivate, does not retain a meaningful relationship with the distinctive characteristics of Cuban tobacco, which is world famous. I do not say "no relation" because, according to the applicant, the seed it possesses has a very remote genetic link with tobacco cultivated in Cuba, but I reiterate that it cannot be claimed that the seed which applicant intends to use is a genuine Cuban tobacco seed, because the multiple generations of reproduction of the original seed outside of Cuba by technical personnel not knowledgeable of Cuban varieties have certainly produced substantial



differences in quality as well as in the phenotype aspects of this seed with respect to the original Cuban tobacco.

6. Thus, cigars made from tobacco produced from these seeds, genetically different from black Cuban tobacco, cannot retain the organoleptic characteristics that identify Cuban cigars worldwide.

7. The quality of Cuban tobacco is derived from four major factors: the genetic purity of our original black tobacco, the soil and climate present in the Vuelta Abajo zone in the Province of Pinar del Rio and the accumulated experience of the Cuban tobacco producers and the manufacture workers who make the final cigars. When one of these factors is missing, undoubtedly, the cigar produced does not have the characteristics that distinguish a Cuban cigar.

8. Tobacco seeds taken from Cuba at the beginning of the 1960s and planted in another country, in this case apparently Nicaragua, generation after generation, will not produce tobacco with the same quality and characteristics of Cuban tobacco for the reasons stated below. First, seeds planted in different soil and a different climate than that of Cuba do not manifest all of their genetic potential and, thus, cannot be selected by the same phenotype characteristics used in Cuba. Second, if the selection of this seed is made by personnel not totally knowledgeable of the characteristics of the original variety, they can never retain the distinctive characteristics of the original variety in successive generations of reproduction..

9. Since the early 1960s, specific methods have been implemented in Cuba at a national level to guarantee the preservation of the genetic characteristics of each variety of tobacco used to produce Cuban cigars. Under this program, the production of tobacco

seeds is controlled by the Institute of Tobacco Research following strict procedures. All phases of selection and production of the Original and Basic seed are carried out by a qualified geneticist to guarantee the perpetuation of the genetic characteristics of the varieties. The production of the seeds for commercial use is carried out by specially designed farms for this purpose under the technical supervision of the Institute of Tobacco Research.

10. The filler and the binder used to make Cuban cigars of high quality are grown in the region known as "Vuelta Abajo" in the Province of Pinar del Rio. This region is characterized by its soil and climate conditions that guarantee the organoleptic (quality) characteristics in Cuban tobacco that differentiate it from any other tobacco grown in other parts of the world, including in Cuba. That is, Cuban tobacco produced in any other part of Cuba, that is not the Vuelta Abajo zone, cannot be used for filler and binder of the well known Cuban cigars, because their organoleptic characteristics do not satisfy the standards of these cigars.

11. As a result of these factors, tobacco produced in Nicaragua or any other country, from a seed of Cuban origin, even of the first generation, will be different from tobacco produced in Cuba from the same seed.

12. I repeat, without commenting on the quality of the non-Cuban tobacco or the cigars made from this tobacco and the methods employed to produce the seed in each country, the seeds generated in successive generations of reproduction outside of Cuba will not demonstrate the same genetic characteristics of the original seed because they are produced and selected under conditions different from those of Cuba. With each generation there will be greater genetic deterioration of the original seed and, thus, the

quality and characteristics of the tobacco produced from these seeds will increasingly divergent from the tobacco produced from the original seed. For example, when I was in Nicaragua in the 1980s, I could see that the tobacco produced from the Corojo variety seed reproduced from the original Cuban seed, did not manifest the same organoleptic characteristics as Corojo grown in Cuba.

13. Thus, from the point of view of an agronomist or geneticist, there is no meaningful or relevant connection between Cuban tobacco cultivated in Cuba and tobacco produced from a seed that was originally Cuba but which has been cultivated outside of Cuba, much less after 45 generations following the departure of that seed from Cuba.

14. There is no existing DNA analysis or biochemical test that can demonstrate that a seed obtained outside of Cuba for  $x$  generations is genetically different from the original seed. However, by employing comparative tests made under the same conditions, where the phenotype and organoleptic characteristics can be evaluated, it is possible to detect the differences that exist between these two types of seeds.

15. Another example that one could give, and which may confuse the non-expert, is the claim that varieties that bear a name related to Cuba, for example "Piloto Cubano", cultivated mainly in the Dominican Republic, produce tobacco with similar characteristics to Cuban tobacco. In this case the difference is even greater because in general these varieties do not have any genetic link with a type of Cuban black tobacco. This is the case with the mentioned "Piloto Cubano", which never was cultivated in Cuba for commercial purposes and which comparative studies undertaken with Cuban varieties have shown is a tobacco that is totally different from Cuban tobacco.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated this 2nd day of August, 2006  
Havana, Cuba

[signature]  
Eumelio Espino Marrero

## **CURRICULUM VITAE**

**Eumelio Miguel Espino Marrero**

**Residence:** Avenida 53, No. 6602  
E/ 66 and 68  
San Antonio de los Baños  
Havana Province, Cuba

### **Employment**

2000- present Vice Director of Technical Production  
National Institute of Tobacco Research  
Cuba

1985-present Vice Director of Scientific Research  
National Institute of Tobacco Research  
Cuba

1970-1985 Head of Program of genetic improvement of tobacco  
National Institute of Tobacco Research  
Cuba

### **Education**

#### **Degrees**

1996 Master in Science, University of Havana School of Biological Sciences  
Master's Thesis: The genetic improvement of tobacco seeds

1985 Degree of Engineer, School of Agronomy of the University of Havana

#### **Specialized Courses**

1997 Plant genetics, University of Havana, School of Biology.

1988 Experimental Design, Institute of Fruit and Citrus Research, Ministry of Agriculture

1982 Genetic Improvement of Tobacco, Tobacco Institute of Bergerac, France

1977 Quantitative Genetics, National Institute of Agricultural Science

1969-73 Advanced courses in biology and plant genetics, University of Havana, School of Biological Sciences

## Research

Research at the National Institute of Tobacco Research has resulted in the development of new varieties of tobacco including: Black Tobacco "Escambray-70", "Habana-92", "Habana-2000", and "Habana Vuelta Arriba".

In addition, research has involved the following:

- The Application of the haploide-diploide method in the improvement of tobacco
- Genetic-statistic parameters, basic information for the improvement of tobacco
- Methodology for the evaluation of the Germoplasma Bank
- Methodology for seed production
- Androsterile analogues

## International Experience

- |         |   |
|---------|---|
| 1971    | <u>Switzerland</u> : Participated in the ISO meeting of standardization of methods and techniques employed in tobacco research                        |
| 1971    | <u>Italy</u> : Participated in the CORESTA meeting to observe the practical application of techniques of the "cultivation of haploids"                |
| 1972    | <u>Canada</u> : Tobacco Research Station, Delhi, Ontario. Exchange of technical experience in methods employed in research and production of tobacco. |
| 1973    | <u>Japan</u> : Study the organization and general methods employed in tobacco improvement at the Tobacco and Salt Corporation.                        |
| 1975-76 | <u>Mexico</u> : Train technicians in "in vitro" cultivation of antaras at TABAMEX   |
| 1980    | <u>Nicaragua</u> : Technical assistance at the Nicaraguan Institute of Agrarian Reform.   |
| 1981    | <u>Nicaragua</u> : Technical assistance to the Nicaraguan Institute of Agrarian Reform.   |
| 1981    | <u>USSR</u> : Study the techniques and methods used to improve tobacco at the Institute for Tobacco Improvement and the Majorka Institute.            |
| 1982    | <u>France</u> : Receive training on the improvement of blue mold resistant tobacco.   |
| 1984    | <u>Canada</u> : Exchange on aspects of contemporary tobacco research. Tobacco Research Station Delhi, Ontario.  |

- 1990        Nicaragua: Technical assistance to the Experimental Tobacco Station in Esteli.
- 1995        United States: Lecture at Rutgers University, New Jersey, on the genetic improvement of tobacco in Cuba.
- 1995        England: Presented paper at the International Meeting of the Agrophyte Group (CORESTA)
- 1996-present   Mexico: Technical assistance to the ASAGRE company.
- 1997        Mexico: Presented paper on Genetic Improvement of Tobacco at the Gorl Xigar Symposium
- 1997        Switzerland: Presented paper at the CORESTA conference.
- 1998-2004   Brazil: Technical assistance to the DANCO company.
- 1998        Argentina: Technical exchange on tobacco improvement at the Tucuman Tobacco Cooperative.
- 1999        Brazil: Technical exchange, Souza-Cruz
- 2003        Spain: Technical exchange, CETARSA

#### **Joint Research Projects**

Institute of Agrarian Reform, Nicaragua: 1981, 1982

Experimental Tobacco Station, Esteli, Nicaragua: 1984, 1985, 1987, 1988, 1989, 1990

Bergerac Research Institute, France: 1984, 1986, 1988

Krasnodar Research Institute, USSR: 1986, 1989

#### **Publications**

##### **Books**

*Cuban Cigar Tobacco: Why Cuban Cigars are the World's Best* (New Jersey: T.F.H. Publications) 1996.

*Instructivo Técnico para el cultivo del tabaco* (Technical instruction for the cultivation of tobacco), (Ministry of Agriculture, Havana, Cuba) 1998.

### Selected Articles

"El cultivo 'in vitro': Nueva perspectiva en el mejoramiento del tabaco en Cuba" (In Vitro cultivation: New perspectives on the improvement of tobacco in Cuba), *Agrotecnia de Cuba*, 1974.

"Ensayo comparativo entre dos líneas de la variedad Corojo" (Comparative test between two lines of the Corojo variety), *Cubatabaco*, 1975.

"Componentes de la varianza en pruebas de variedades de tabaco negro" (Components of the variance in tests of varieties of black tobacco), *Agrotecnia de Cuba*, 1975

"Evaluación de variedades de tabaco rubio en Pruebas de Concursantes" (Evaluation of varieties of light tobacco in tests of candidates), *Cubatabaco*, 1975.

"Evaluación de variedades de tabaco Burley" (Evaluation of varieties of Burley tobacco), *Cubatabaco*, 1976.

"Análisis dialéctico de algunos caracteres cuantitativos en variedades de tabaco negro" (Dialectic analysis of some quantitative characters in varieties of black tobacco), *Agrotecnia de Cuba*, 1976.

"Efecto de la interacción genotipo-ambiente, en la composición química del tabaco negro cubano (N. tabaco L.) (The effect of genetic-environmental interaction in the chemical composition of black Cuban tobacco), *Agrotecnia de Cuba*, 1976.

"Correlación fenotípica entre caracteres del tabaco negro cubano (N. tabacum) (Phenotypical correlation between characters of black Cuban tobacco), *Agrotecnia de Cuba*. 1977.

"Uso de la androgenesis en el mejoramiento genético del tabaco negro cubano (N. tabacum L.) (Use of androgyny in the genetic improvement of Cuban black tobacco), *Agrotecnia de Cuba*, 1978.

"Componentes de la varianza y estabilidad fenotípica en variedades de tabaco rubio (N. Tabacum L.) (Components of the variety and phenotype stability in light tobacco), *Ciencia técnica de la Agricultura*, 1980.

"Análisis de la variación cuantitativa en variedades de tabaco rubio (N. Tabacum L.) (Análisis of the quantitative variation in varieties of light tobacco), *Ciencia técnica de la Agricultura*, 1980.

"Escambray-70: Nueva variedad de tabaco negro para cultivo al sol" (Escambray-70: A new variety of black tobacco for sun cultivation), *Ciencia técnica de la Agricultura*, 1980.



“Características y aspectos fitotécnicos de la variedad de tabaco negro ‘Escambray-70’” (Characteristics and phytotechnical aspects of the black tobacco variety ‘Escambray-70’) *Ciencia técnica de la Agricultura*, 1980.

“Algunas características de las variedades de tabaco (*N. Tabacum*) cultivadas en Cuba” (Some characteristics of the varieties of tobacco cultivated in Cuba), brochure published by Center for Agricultural Research and Development (CIDA), Ministry of Agriculture of Cuba, 1980.

“Efecto de diferentes factores ambientales sobre el comportamiento de las variedades de tabaco negro cubanas” (Effects of different environmental factors in the behavior of Cuban varieties of black tobacco), *Agrotecnia de Cuba*, 1984.

“Nuevas variedades de tabaco Burley con posibilidades comerciales en Cuba” (New varieties of Burley tobacco with commercial possibilities in Cuba), *Ciencia técnica de la Agricultura*, 1984.

“Obtención de nuevas variedades de tabaco rubio” (Achievement of new varieties of light tobacco), *Ciencia técnica de la Agricultura*, 1985.

“Obtención de análogos androesteriles de variedades de tabaco cubano (*n. tabacum*) (Achievement of analogous androesteriles of varieties of Cuban tobacco), *Ciencia técnica de la Agricultura*, 1985.

“Nuevas variedades de tabaco negro para cultivo bajo tela resistente al moho azul (*P. tabacina*) (New varieties of black tobacco resistant to blue mold for shade cultivation), *Agrotecnia de Cuba*, 1987.

“Obtención de fuentes de resistencia múltiple en el tabaco negro cubano” (Achievement of sources of multiple resistance in Cuban black tobacco), *Ciencia técnica de la Agricultura*, 1988.

“Evaluación de variedades de tabaco ante la infección del fuego salvaje y el moho azul en las condiciones de la URSS” (Evaluation of the varieties of tobacco affected by wild fire and blue mold in the USSR), *Ciencia técnica de la Agricultura*, 1988.

“Evaluación integral de la variedad ‘Corojo Especial’ (Habana 7.5.1.) como productora de capa” (Integral evaluation of the ‘Corojo Especial’ variety (Habana 7.5.1.) as producer of binder), *Agrotecnia de Cuba*, 1989.

“Haban P.R.: Nueva variedad de tabaco negro (*N. tabacum* L.) con resistencia múltiple y buenas características comerciales” (Haban P.R.: A new variety of black tobacco with multiple resistance and good commercial characteristics), *Agrotecnia de Cuba*, 1989.

“Resultados de ocho años de colaboración franco-cubana en el mejoramiento genético del tabaco” (Results of eight years of French-Cuban collaboration in the genetic improvement of tobacco), *Cubatabaco*, 1991.

“Origen y mejoramiento del tabaco negro cubano” (Origin and improvement of Cuban black tobacco), *Tobacco Journal Internacional*, 1993.

“Dos nuevas variedades de tabaco negro para cultivo bajo tela resistentes al moho azul” (Two new varieties of black tobacco for shade cultivation resistant to blue mold), *Cultivos Agroindustriales*, 1994.

“Nuevas variedades de tabaco resistentes al moho azul obtenidas en la Est. Exp. De Tabaco de Cabaiguán” (New varieties of tobacco resistant to blue mold at the Experimental Station of Cabaiguán), *Infociencia*, 1996.

“Determinación de la altura de desbotonado y método de cosecha en la variedad de tabaco Habana-92” (Determination of the height and method of harvesting of the tobacco variety Habana-92), *Infociencia*, 1996.

“Caracterización biométrica de híbridos inter específicos y progenitores del género Nicotiana” (Biometric characterization of inter species Hybrids and ancestors of the genus Nicotiana), *Revista Biología*, Vol 11 (1997), pp. 71-80.

“Habana-92 y ‘Habana-2000’: Dos nuevas variedades de tabaco negro cubano resistentes al moho azul (P. tabacina Adam)” (Habana-92 and Habana-2000: Two new varieties of Cuban black tobacco resistant to blue mold), *Revista Cubana Agricultura*, Vol. 1, No. 1 1998.

“Nueva variedad de tabaco negro resistentes al moho azul (P. tabacina) para cultivo en las provincias centrales y orientales” (New variety of black tobacco resistant to blue mold for cultivation in central and eastern provinces), *Cubatabaco*, 1998.

“Habana Vuelta Arriba: Variedad de tabaco negro para cultivo en la región central y oriental de Cuba” (Habana Vuelta Arriba: Variety of black tobacco for cultivation in the central and eastern region of Cuba), *Cubatabaco*, 1999.

“Comportamiento en la zona central del país de las variedades resistentes al moho azul” (Behaviour in the central zone of the country of varieties resistant to blue mold), *Cubatabaco*, 2002.

“Manual práctico del Supervisor Agrícola” (Practical Manual for the Agricultural Supervisor), 1st edition, 2002, 2nd edition 2006.

“Nuevas líneas de tabaco negro resistentes al moho azul” (New lines of black tobacco resistant to blue mold), *Cubatabaco*, 2003.

“Evaluación de la resistencia a enfermedades en tabaco negro” (Evaluation of the resistance to diseases in black tobacco), *Cubatabaco*, 2003.

“Incorporación de la EMC en las variedades Habana-92 y Habana-2000” (Incorporation of EMC in the varieties Habana-92 and Habana-2000), *Cubatabaco*, 2004.

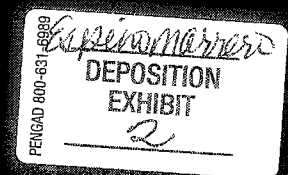


# • CUBAN CIGAR TOBACCO

WHY CUBAN CIGARS ARE THE WORLD'S BEST



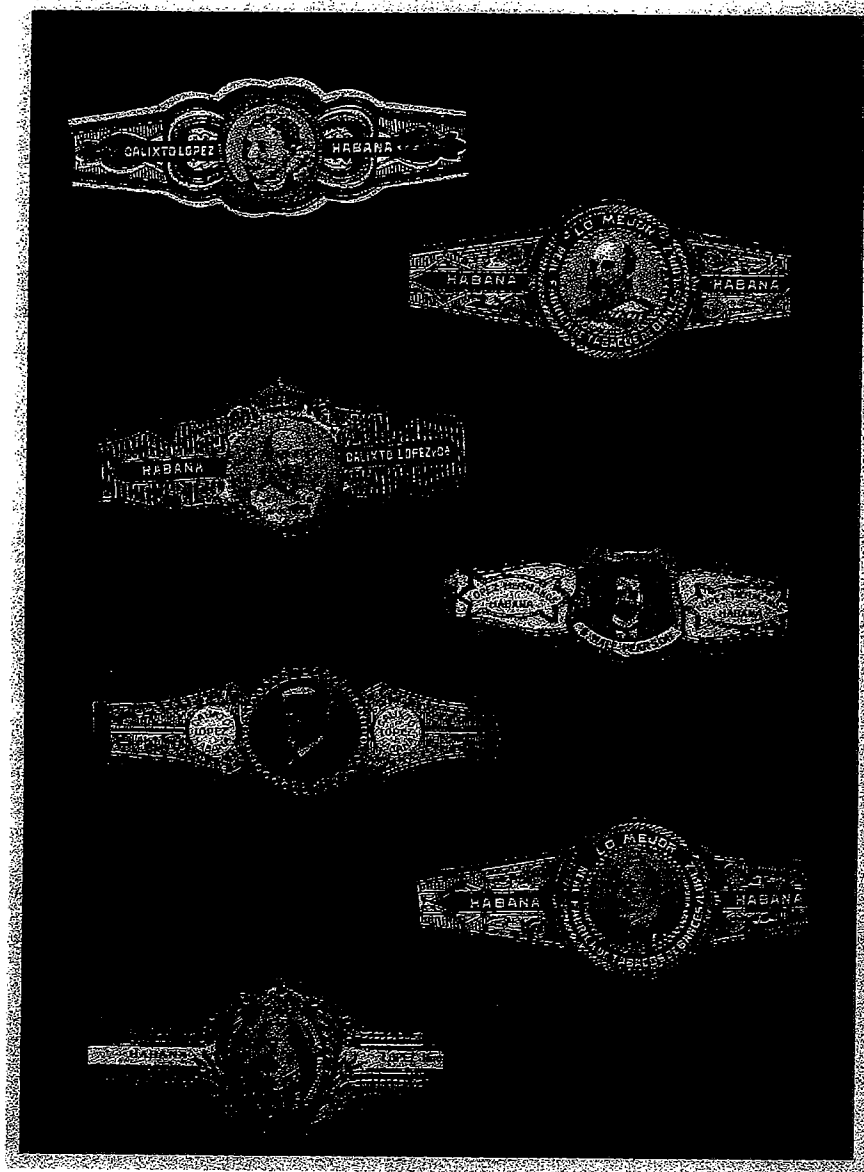
EUMELIO ESPINO MARRERO





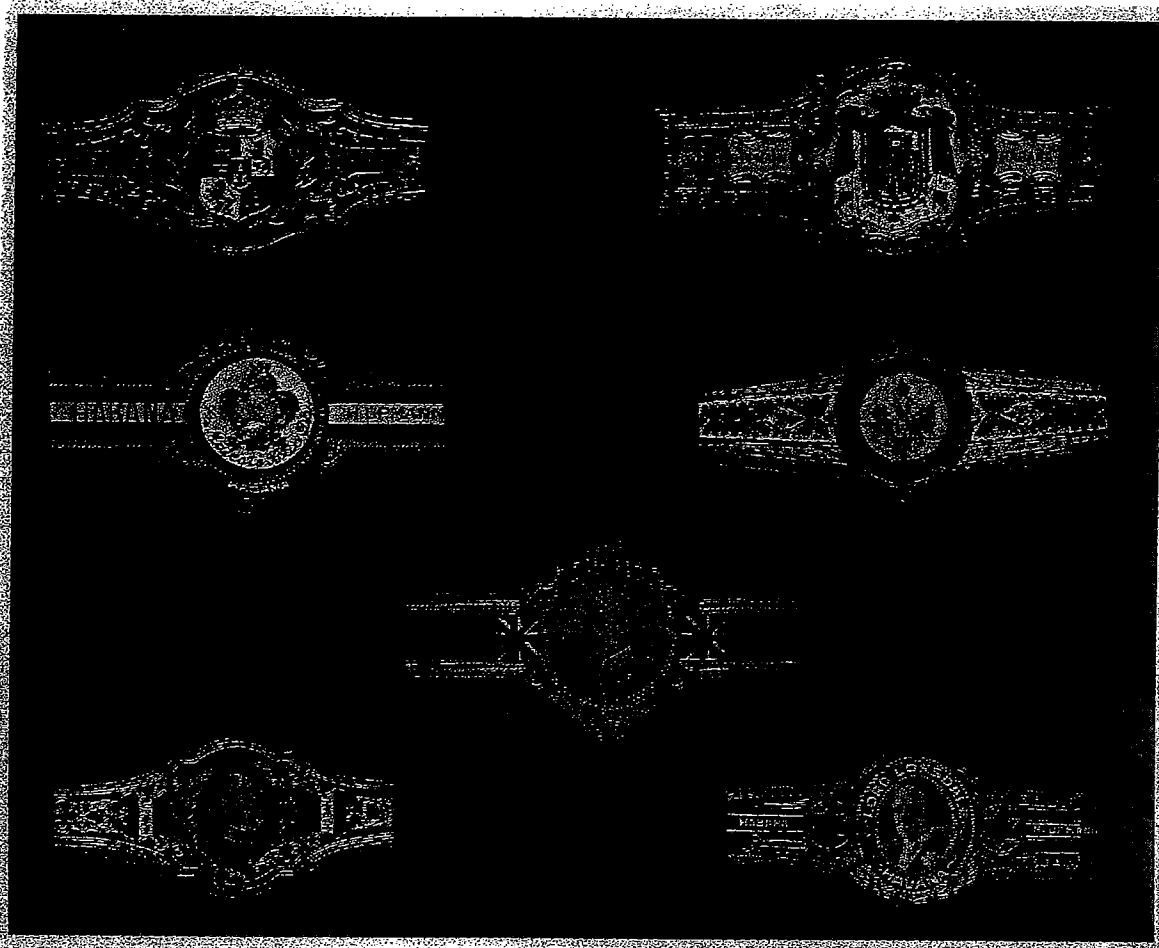
# CUBAN TOBACCO

WHY CUBAN CIGARS ARE THE WORLD'S BEST.



by Eumelio Espino Marrero





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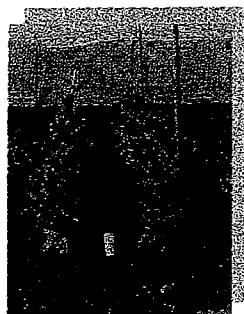
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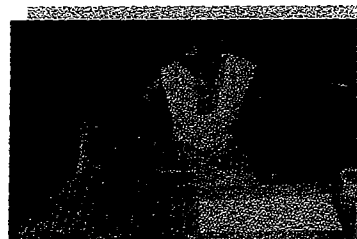
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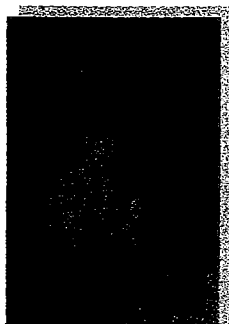
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## ORIGINS OF ITS CULTIVATION IN CUBA

The species *Nicotiana tabacum* L. is a natural amphidiploid between the *Nicotiana sylvestris* and one of the species of the tomentosae section. According to the detailed investigations by Gerstel (1960) and other researchers, it is reasonable to assume that the species is the *Nicotiana tomentosiformis* Goodspeed.

From the phytogeographic data on the dispersion of the *N. tabacum* predecessors (*N. sylvestris* and *N. tomentosiformis*) it follows that the genetic origin of the *N. tabacum*, as an interspecific primary hybrid, can be placed in the area comprised by the pre-mountainous region of the Andes in present day Bolivia, the exact intersection of the areas where the *N. sylvestris* and *N. tomentosiformis* are found.

Taking the term "center of origin", coined by Vavilov (1926), as the meeting place between a species' genetic origin and the center where that species was initially cultivated, the area of the *N. tabacum*'s center of origin can be broadened to the Peruvian - Ecuadorian - Bolivian Andes, the seat of the ancient Inca and Chibcha civilizations, whose peoples were the first to grow this species.

Numerous findings indicate that the *N. tabacum* was grown for a long time in the American continent and that the area dedicated to its cultivation covered the territories occupied today by Mexico, Central America,

the Caribbean and vast portions of South America. This great dispersion over different climates and types of soils originated a variety of eco-agricultural strains adapted to that very diversity of natural conditions which constitute the direct predecessors of the tobacco varieties known today.

According to Mangelsdorf and Smith (1949), the existing paleontological data place the

beginning of maize cultivation in Mexico somewhere between 6000 and 5000 BC, while in Central and South America it can be traced back to 3000 to 2000 BC. It is therefore reasonable to assume that it was precisely during this period of contact that the introduction of tobacco to Central America and Mexico occurred, following a route exactly op-

posite to that of maize. Consequently, it was during the course of that same period that tobacco also came into the Antilles and Cuba.

During Columbus' first voyage, while his ships were at anchor in the bay known today as Gibara, on 2 November 1492, indigenous Cubans showed the Admiral and his men a few dried leaves of a plant that was totally unknown to the Europeans but seemed to be cherished dearly by the natives. Puzzled by the origin and possible uses of the leaves, Columbus ordered two of his men, Rodrigo de Xerez and Luis de Torres, to take two of the natives as guides and march inland to find out what those leaves so enthusiastically presented



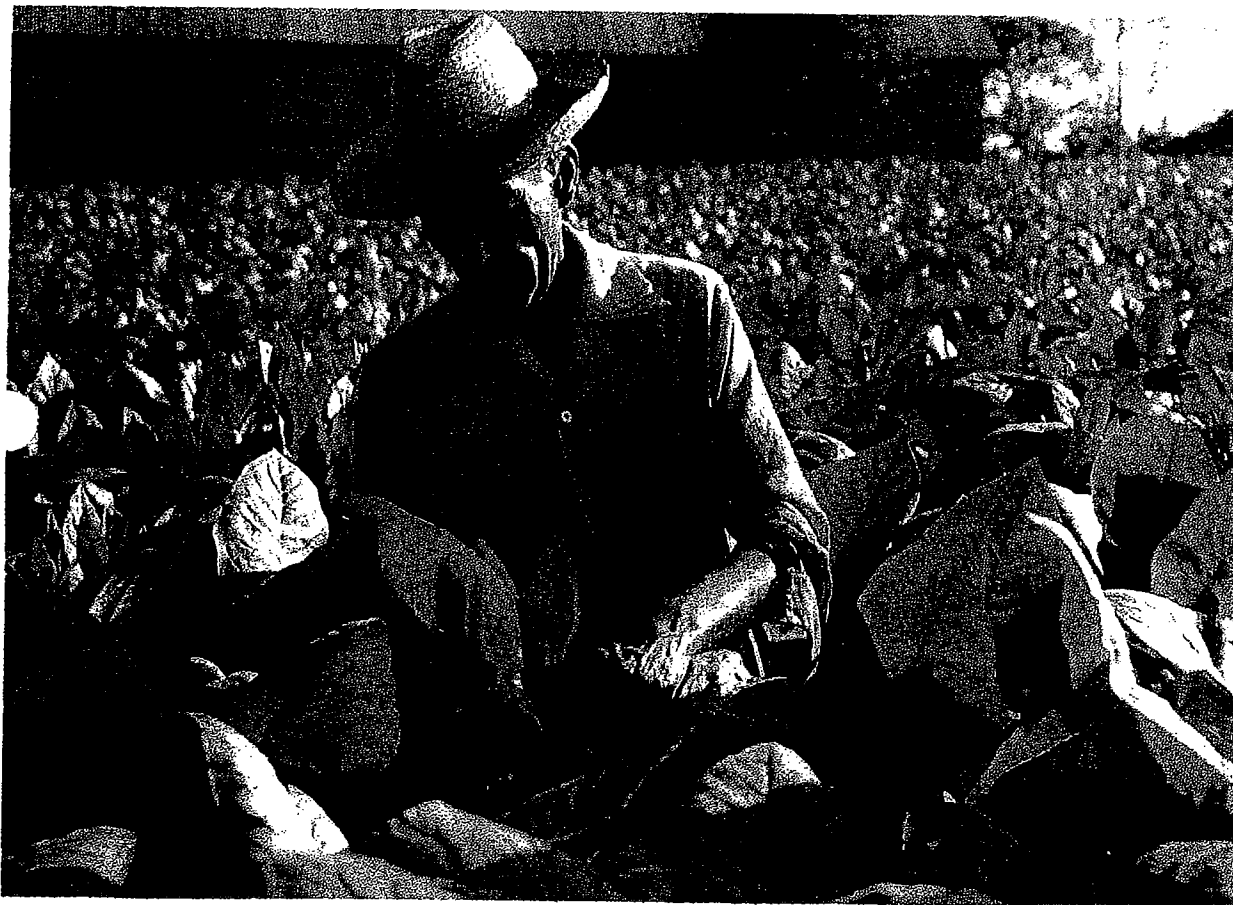
On November 2, 1492 Christopher Columbus and his men are presented with dried tobacco leaves by the Cuban Indians. This historic moment was captured in many old illustrations like this one.



## TRADITIONAL VARIETIES

There is very little information on the varieties of tobacco that were cultivated in Cuba since pre-Columbian days to the present century except for a few incomplete descriptions that leave out their names and fundamental characteristics. What is really known for fact is that plantations were very heterogenous as

ers themselves. They used to harvest the main plant and after the first, second or even third sprouting did they collect the seeds, without any consideration as to the fundamental traits of the original plant, let alone the differences that might exist between the plants whose sprouts had generated the seeds.



The typical *Criollo* plantations in which one of Cuba's most popular tobacco varieties is grown. These vegas (areas in which tobaccos are grown) are in the finest tobacco-growing lands in the world in the Vuelta Abajo in Pinar del Rio Province.

a result of the inadequate seed production system, which was made at random without any selection whatsoever of the plants that were earmarked for seed, nor was there any awareness of the need to isolate those plants to prevent undesirable crossings of different strains. Throughout this long period of time, seeds were generally produced by the tobacco farm-

This made it impossible to have genetically pure tobacco varieties to guarantee the required uniformity of the plantations and the necessary stability of the yields and quality of the produce. In spite of this, Cuban tobacco won early fame as the best in the world, and not even when new seeds from other countries were introduced into the Cuban planta-

tions did the leaves from the island cease to be the most highly regarded of all. This shows the all-important role of the climate and the particular characteristics of the Cuban soils, which give black tobacco a distinctive quality that sets it apart from the ones harvested anywhere in the world.

Nevertheless, it must be pointed out that if genetically stable strains of genuine native black tobacco are combined with Cuba's extraordinary natural conditions for the growing of this plant, the results must necessarily be superior, raising the quality of the product to inimitable standards. That is why, since the first decade of this century, a considerable attention was given to the identification and preservation of the original Cuban varieties, as well as to the development of new and equally good strains.

In 1907, an American researcher working in Cuba, H. Hasselbring, took Cuban seeds to the United States in order to study the behavior of those varieties in another climate and under totally different cultivation conditions. In the tobacco plantations developed from those seeds, he observed a striking diversity which he initially thought was a possible effect of the climatic change. The following year, Hasselbring planted the same seeds on the grounds of the former Agricultural Station in Santiago de las Vegas, very near Havana, and again observed the same phenotypic diversity that characterized the Cuban plantations of the times. He concluded that this heterogeneity was the result of an indiscriminate mixing of seeds from different varieties of tobacco and from the various hybrid forms that already existed.

A view of the Criollo tobacco growing in the sun. This area is the Guanés in Pinar del Río.





## TRADITIONAL VARIETIES



highly priced Cuban black tobacco. In 1940, after three years of hard work, the present commercial variety named "Criollo" was finally developed and it fulfilled every requirement to make an "Habano" a unique product for its indisputable and matchless organoleptic quality.

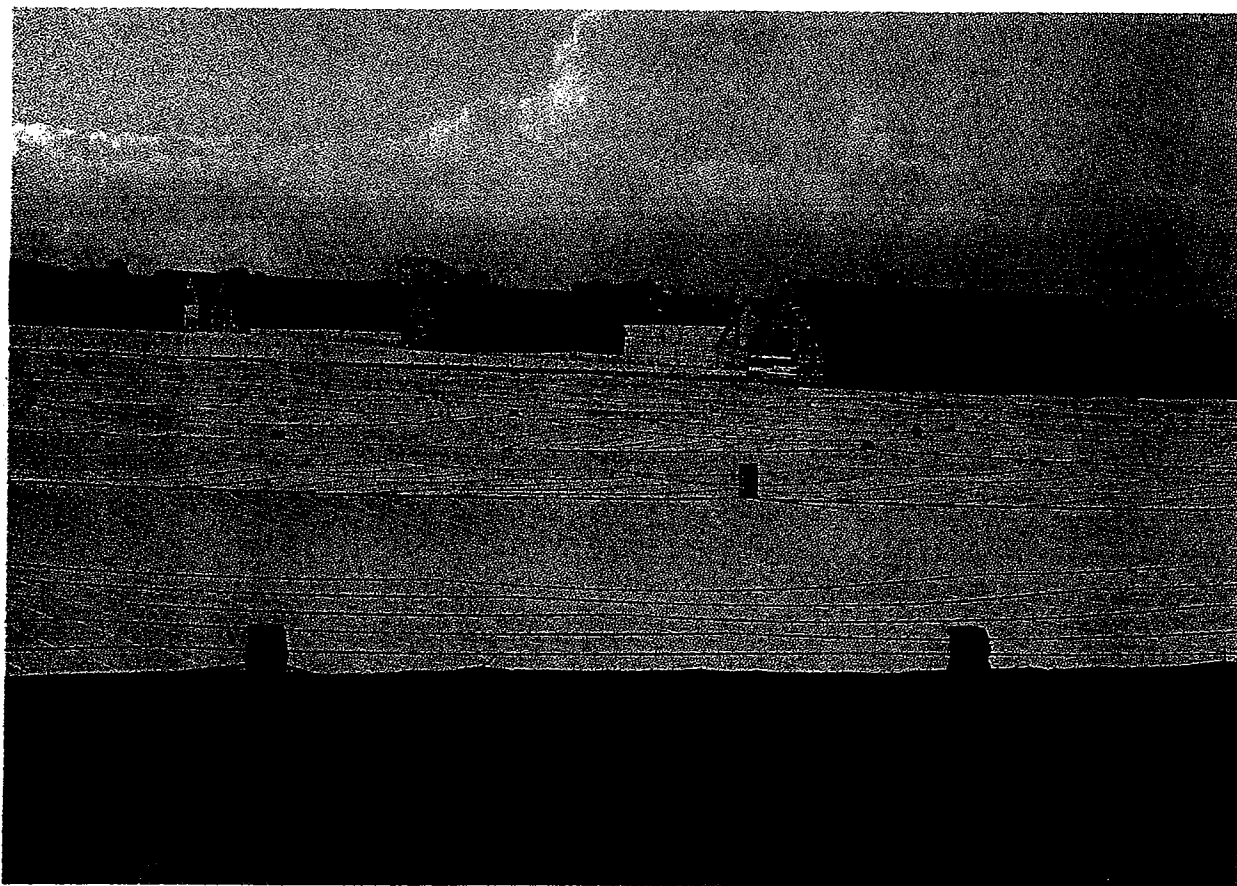
The "Criollo" variety has a potential mean yield of about 1900 kilos per hectare, its shoots are numerous and well developed and its average height with inflorescence is 1.75 meters. The plant normally carries 16 usable leaves, set 7cm apart, and its largest leaf is approximately 27 cm wide and 43 cm long. It is resistant to the black-shank, but highly vulnerable to the blue mould and the tobacco mosaic virus (TMV). At present it is used as a commercial variety and cultivated in open sunshine in Pinar del Río.

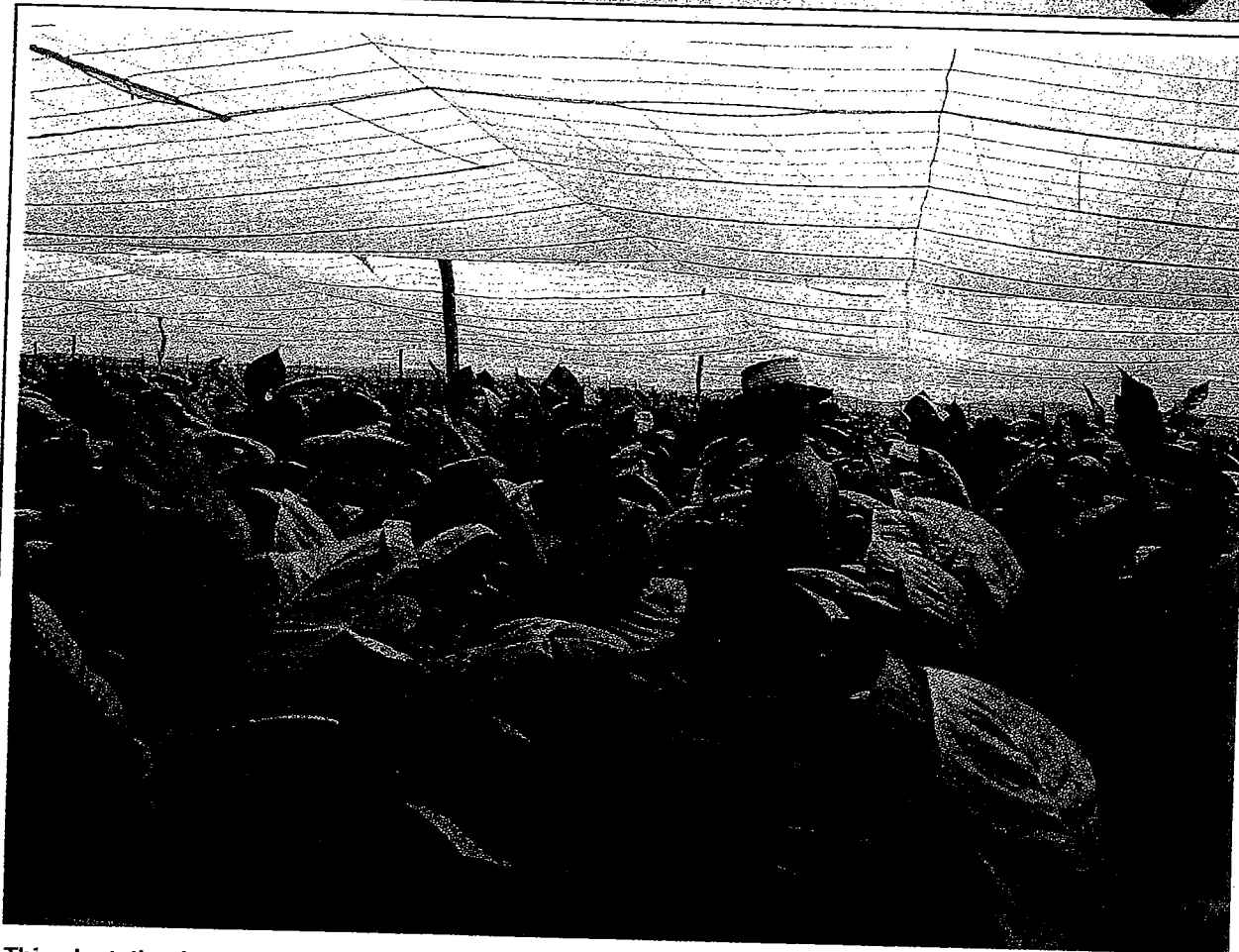
In the thirties, a few years before the introduction of the "Criollo" as a commercial variety, Pinar del Río began to grow a new variety

known as "Pelo de Oro" (Golden Hair). The origin of this variety is uncertain. Some say it was brought over from Mexico by the Cuban Land & Tobacco Leaf Co., that used to own large tobacco plantations in the San Juan Y Martínez zone, while others believe it is the result of natural cross-breeding between some of the Cuban black tobacco strains and the Middle East "Esmirna" variety that was grown in small quantities in Pinar del Río.

Regardless of its origins and in spite of its excellent organoleptic quality, the "Pelo de Oro" variety is different from the original black tobacco of Cuba and was therefore never established as a commercial variety in the world famous "Vuelta Abajo" region. But the "Pelo de Oro" was nonetheless grown with considerable success in the central region of Cuba, known as Remedio, and soon expanded over to the eastern part of the island, Vuelta Arriba, where it became the main commercial tobacco variety to this day.

This vega is covered with cheese cloth to protect the plants from the sun and insects. This shade-grown tobacco is basically used for *capa* or *wrapper* as it is called in English.





This plantation is growing the *corojo* variety of cigar tobacco. It has been used in Cuba for *capa* (=wrapper) since 1947 for high quality Havana cigars.

The leaves of the "Pelo de Oro", aside from their distinctive high quality, mature with great uniformity which permits their collection in bunches. This variety produces an outstanding number of wrapper leaves allowing three and even four gleanings from a single plant; this raises its production potential to about 2300 kg/hectare. On average, it gives 12 to 14 usable leaves per plant, set 8 cm apart, and the largest leaf is normally 25 cm wide and 45 cm long. The "Pelo de Oro" is resistant to the black-shank, but highly vulnerable to the blue mould and the "orobanche", a parasitic plant that wreaks havoc in the regions where this tobacco variety is cultivated.

In the early forties, Daniel Rodríguez, one of the leading tobacco producers in Pinar del Río, hired a Dutch botanist named Nienhuys to develop a new variety that would preserve all the virtues of the Cuban black tobacco but that would also produce excellent wrapper

leaves. Rodríguez launched an improvement program based on cross-breeding "Criollo" strains with a good wrapper producing "Sumatra" variety. After long years of testing, Rodríguez and Nienhuys obtained the present commercial variety "Corojo", named after the farm where it was initially developed.

The "Corojo" variety is noted for its superb wrapper leaves, which constitute the distinguishing mark of Cuban rolled cigars, known the world over as "Havanas". This variety yields some 2000 kg/hectare, with 20 per cent of this produce in high quality wrapper leaves. It gives 16 to 18 usable leaves per plant, set 10 cm apart; its height, including inflorescence, is 2.07 m. The central leaves are 28 to 30 cm wide and 48 to 50 cm long. It produces abundant shoots but it is only moderately resistant to the black-shank and highly vulnerable to the blue mould and the mosaic virus.



At present, the techniques used in the cultivation of Cuban black tobacco are in keeping with the agronomical peculiarities of the varieties introduced since 1940 and with the potential yields of the soils dedicated to that crop. However, the principles that rule the present techniques are essentially the same as the ones traditionally applied in the cultivation of tobacco in Cuba.

In the initial years of this century, the technique of covering the tobacco plants with cheese-cloth (shade grown or covered tobacco), was introduced in Cuba to obtain wrapper leaves with a better color and texture than ones produced until then in the open sunshine plantations. Mr. Calixto López was the first to use the cheese-cloth covers at his farm **Guainacabo**, in the municipality of San Luís, Pinar del Río province. Shortly after that, Don Luís Marx adopted this system at his farm **Zorrilla**, near the town of Alquizar, in the Partido region.

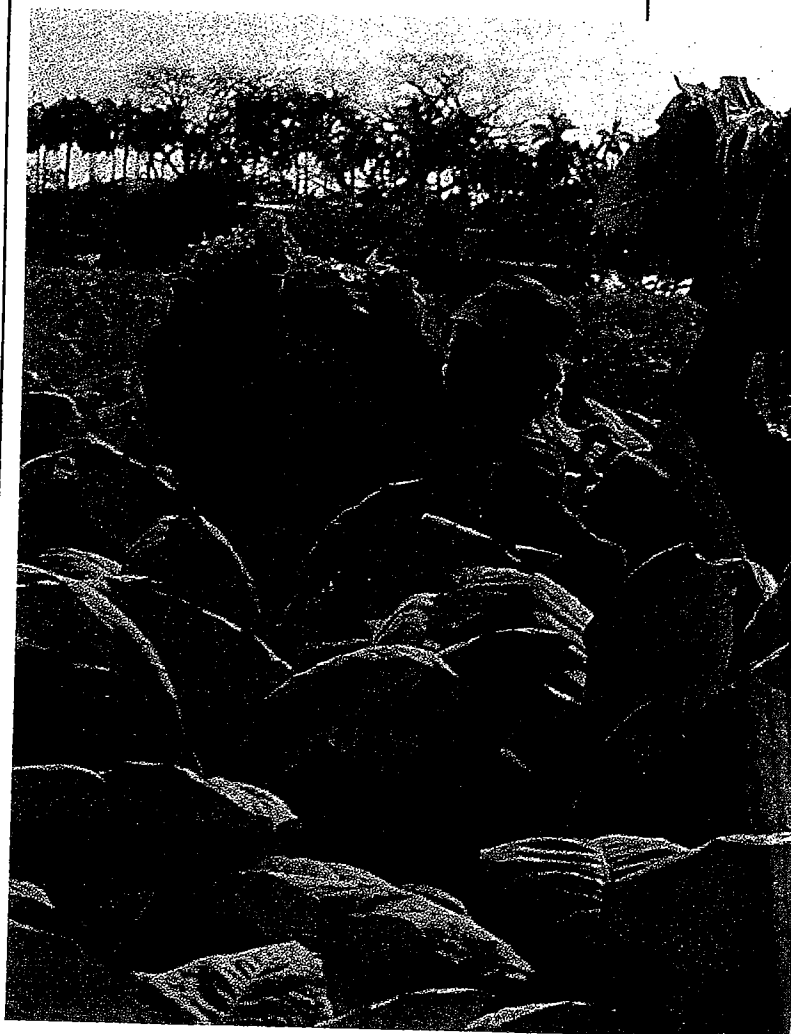
Simultaneously, the tobacco Trust also applied this method in some of its Vuelta Abajo farms, after which most of the leading tobacco growers of the country - except the Vuelta Arriba farmers - followed suit. Together with the covered cultivation method, the leaf by leaf picking was also introduced in the Partido region, eliminating the cutting in pairs. The loose leaves were now sewn together and hung to dry from wooden staffs. This new procedure soon included the open sunshine tobacco harvested in that region and in the best plantations of Vuelta Abajo.

It is therefore safe to say that since the first decade of this century Cuban black tobacco was grown under the three agricultural regimes that are still applied to this day. These regimes are designed to produce tobacco for different industrial uses (wrapper, binder, filler and pipe tobacco), and each is known in Cuba as "sunshine tobacco on staffs", "sown sunshine tobacco" and "covered tobacco".

The "sunshine tobacco on staffs" is the black tobacco cultivated under full sunshine conditions whose leaves are harvested in pairs. This is done by progressively cutting the stem of the plant in sections that contain two or three leaves, depending on their dimensions. When the plant reaches the optimal technical maturity, harvesting begins by cutting the top

part of the stem that contains the last two or three leaves of the plant. This is done several times until the lower section with two or three leaves is finally cut. This method also permits the harvesting of "capaduras", which are the leaves that reappear from the shoots of the principal plant after harvesting. The sections of stem or "mancuernas" are placed on wooden staffs and placed in the curing barns to dry. This tobacco is generally used as filler and binder for manufacturing cigars for the domestic market, for leaf tobacco exports and for the national cigarette industry. About 30% of the black tobacco that is grown today in Pinar del Río and more than 90% of the type produced in the central and eastern regions of Cuba fall into that category.

On the other hand, "sewn sunshine tobacco" is also cultivated under full sunshine conditions but harvested leaf by leaf. This method consists of picking first the lower







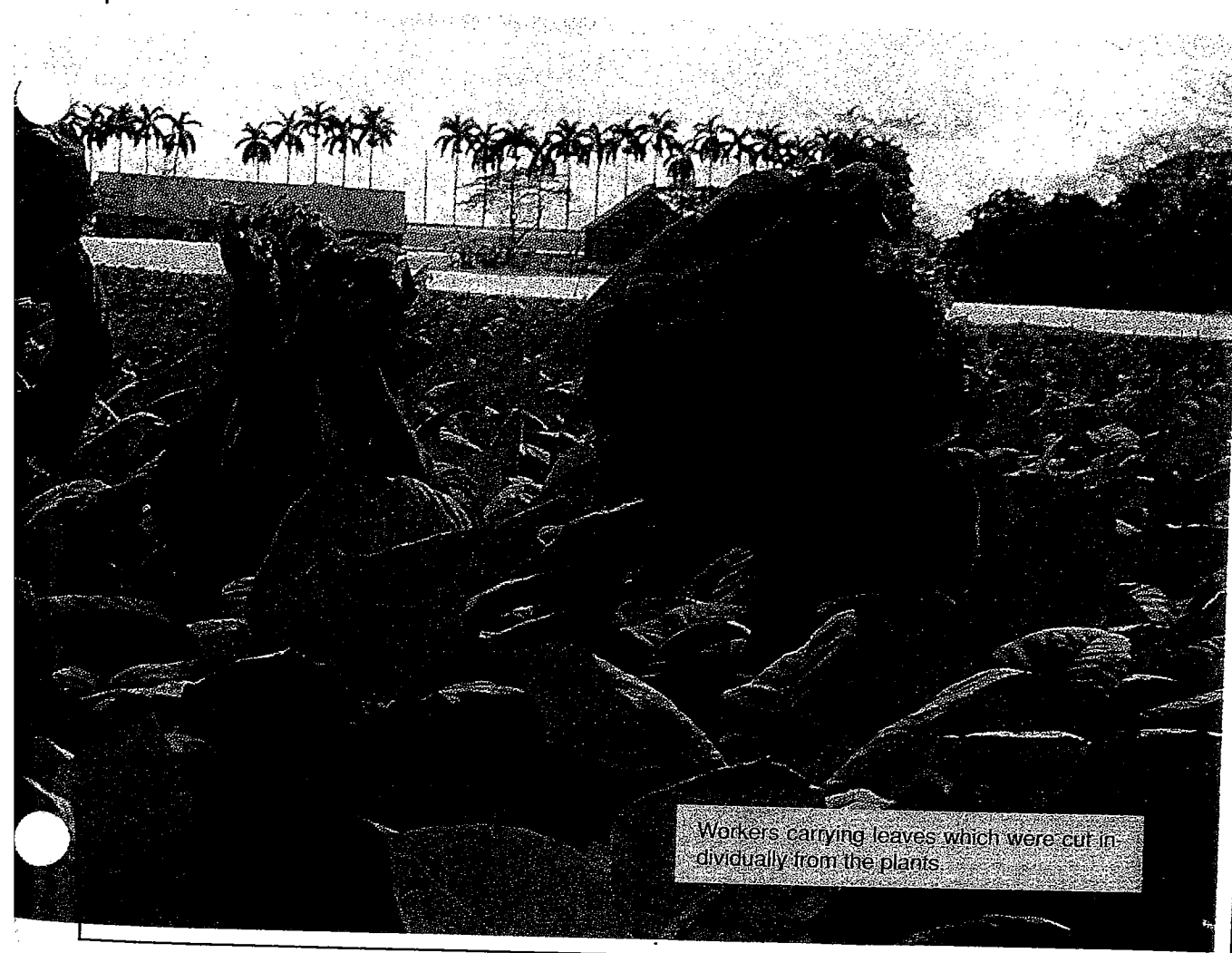
## METHODS OF CULTIVATION AND HARVESTING



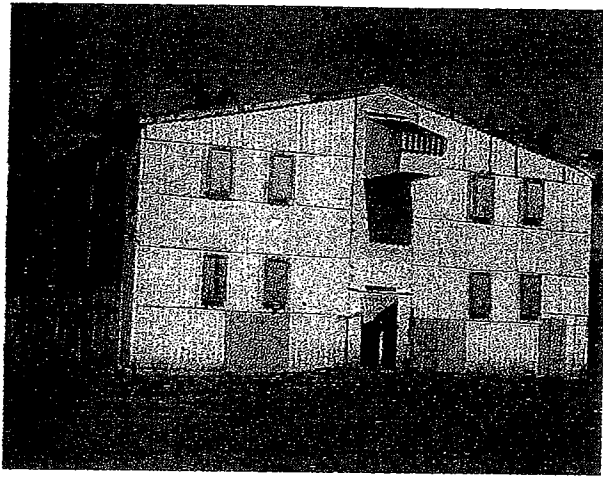
leaves of the plant and proceeding upwards along the stem when the leaves successively reach their optimal maturity. The two or three leaves that mature simultaneously are picked manually, so in five "pickings", at 7 to 8 day intervals, all the leaves of a single plant are collected. The leaves are immediately sewn together with an appropriate string or thread using a specially designed needle. All the tobacco of the premium plantations of Pinar del Río is grown and harvested according to this method and it is basically used as binder and filler in the manufacture of Havanas or, in the case of the choice plantation produce, for leaf-tobacco exports and as raw material for the national cigar and cigarette industries.

Lastly, "shade grown" or "covered tobacco" is the one grown under cheese-cloth covers. Sunlight has a great influence on the texture and elasticity of the leaves, as well as on the intensity and uniformity of their color; by

regulating their exposure to direct sunlight, the plants produce excellent wrapper leaves that show very thin veins. In general, covered tobacco is less exposed to the attack by insects and the destructive effects of the weather, like strong winds, heavy rainfall and sleet. At the present time, all the tobacco of the Partido zone, in the province of Havana, is cultivated under cloth, as well as a considerable part of the tobacco grown in the San Juan y Martínez and San Luís municipalities in Pinar del Río. The tobacco leaves grown by this method are hand picked one by one and then sewn together for drying. In this case, six to eight "pickings" are done, depending on the number of leaves that were left on the plant when unbudded. All the wrapper leaves used in the manufacture of Habanos come from different varieties of Cuban black tobacco specifically developed for this purpose and cultivated by the covered method.



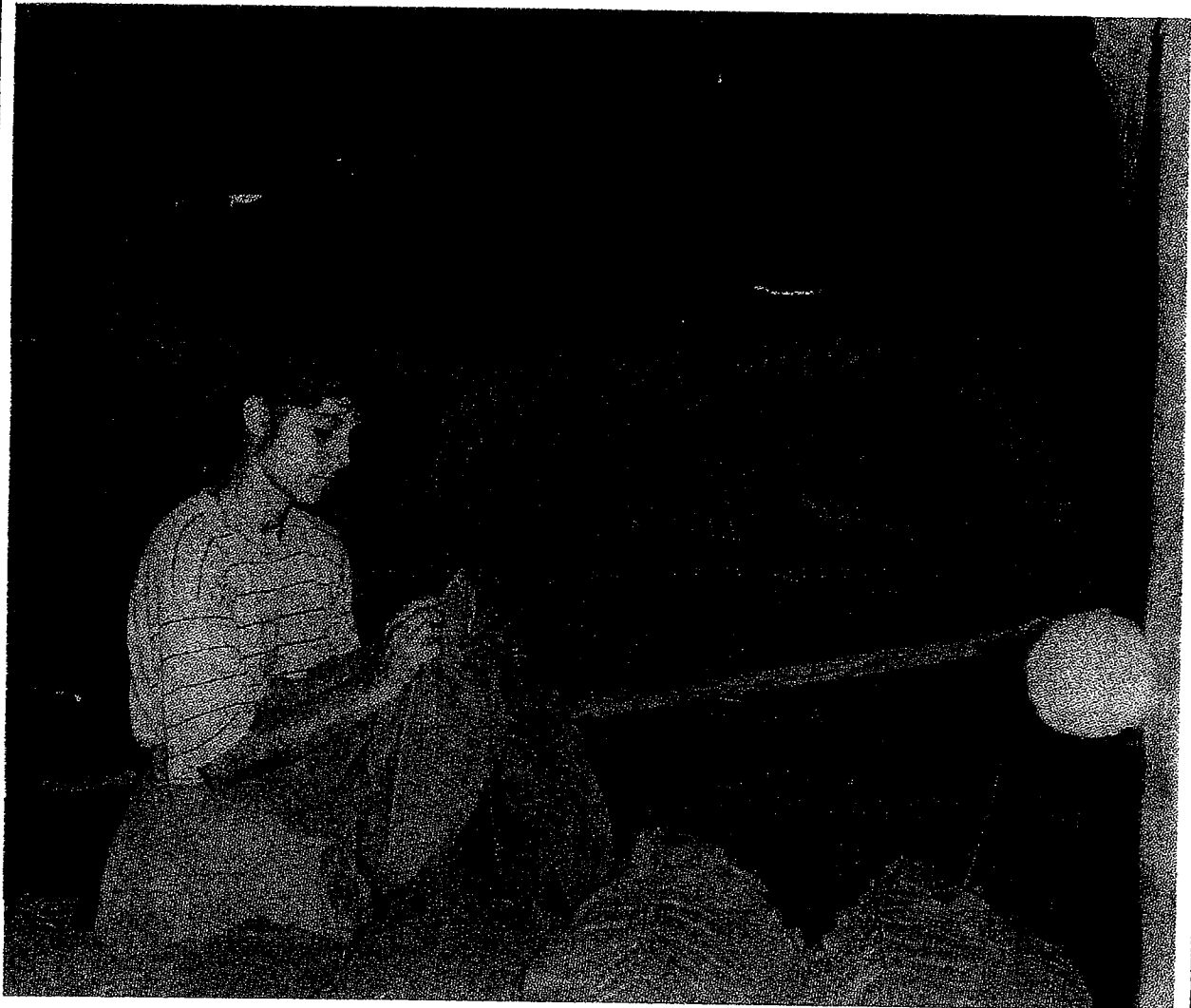
Workers carrying leaves which were cut individually from the plants



The most modern curing barns are much larger and are made of concrete. These barns are typical of the wrapper (capa) processing barns in Havana province.

In the case of tobacco cultivated under cheese-cloth, the classification takes into account basic features of the leaf like color, texture, gloss, size, elasticity and the flaws or overall damages it may show. Thus, more than 50 different classes are sorted out and only the very best are used as wrapper for the world famous Habanos cigars. These wrapper leaves must have the right color, ranging from light brown to very light brown; reddish brown leaves are also admitted, but in all cases their color has to be uniform and glossy. The leaves must be either thin or slightly thin, with tenuous veins, elastic and adequately oily. They must be flawless, but if they show any damages, these can only be found near the central nerve, in order not to affect the part of the leaf

In the curing barns, farmers sew the leaves which are individually cut from the plant, so they can be hung on drying rods as shown in the background of this photo.







used as wrapper. Their dimensions may vary, but size determines in what type of cigar will a specific wrapper be used.

Tobacco grown in the fine plantations of Vuelta Abajo, where the filler and binder material for Habanos are produced, is divided into four categories or "timings", according to the position occupied by the leaves on the plant and their distinctive characteristics. These are:

Volado (filler). The three or four lowest leaves on the plant. Normally thin, soft textured, low on nicotine and aromatic, they burn very easily. These constitute the Strength No. 1.

Seco (dry). Leaves coming from the central section of the plant. Very good texture, very aromatic with medium nicotine content, they burn easily. These constitute the Strength No. 2.

Ligero (light). The two or three leaves im-

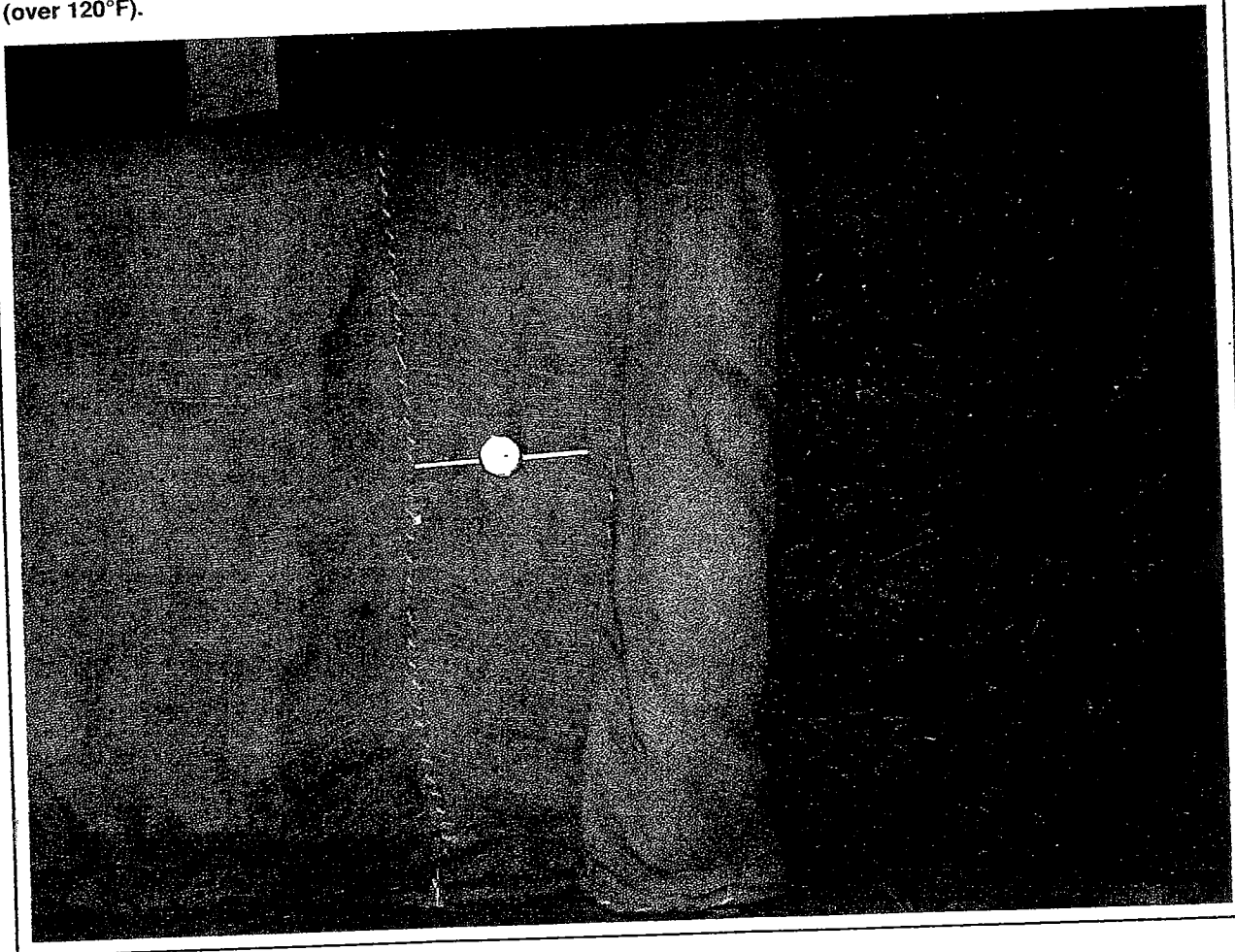
mediately below the top two on the plant. Noted for their coarse texture, high nicotine content and strong taste. These constitute the Strength No. 3.

Medio Tiempo (mid-term). The top two leaves that crown the plant. Very coarse texture, difficult to burn, very high nicotine content and extremely strong taste. These constitute the Strength No. 4.

After completing its second fermentation period, the tobacco that comes from fine plantations is sorted out into classes according to texture, size and damage levels. More than 30 different classes are recognized, but only those that fall into the categories or "timings" previously described are used as filler and binder for Havanas.

Once selected, each class of tobacco is individually packed into bales and, depending

The first stage of fermentation may be when the dried tobacco are packed in *pilones* which are covered variably with plantain leaves, cheese cloth or potato sacking. This first fermentation stage lasts about one month. Various fermentation processes, especially when water is added, can bring the temperature to 50°C (over 120°F).

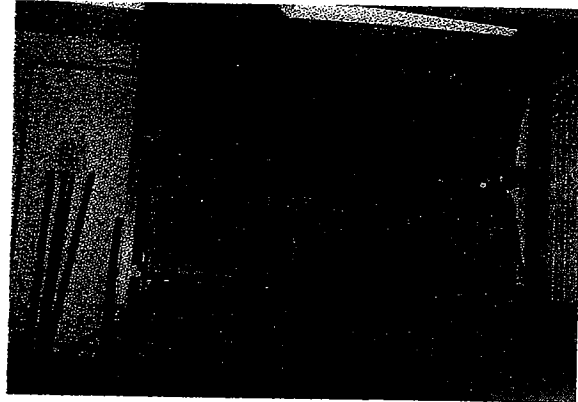




## CIGAR MANUFACTURE

The industrial process begins with the moistening of the tobacco leaves selected as wrapper, to soften and make them supple enough to be handled without getting torn or damaged. Next comes the stripping, which in the case of wrapper leaves the central nerve is completely eliminated, producing two halves or "sides" of leaf. The "sides" are then classified according to their color and size; the lighter ones are used for the smaller cigar types or "vitolas", while the darker ones are destined to the larger sizes.

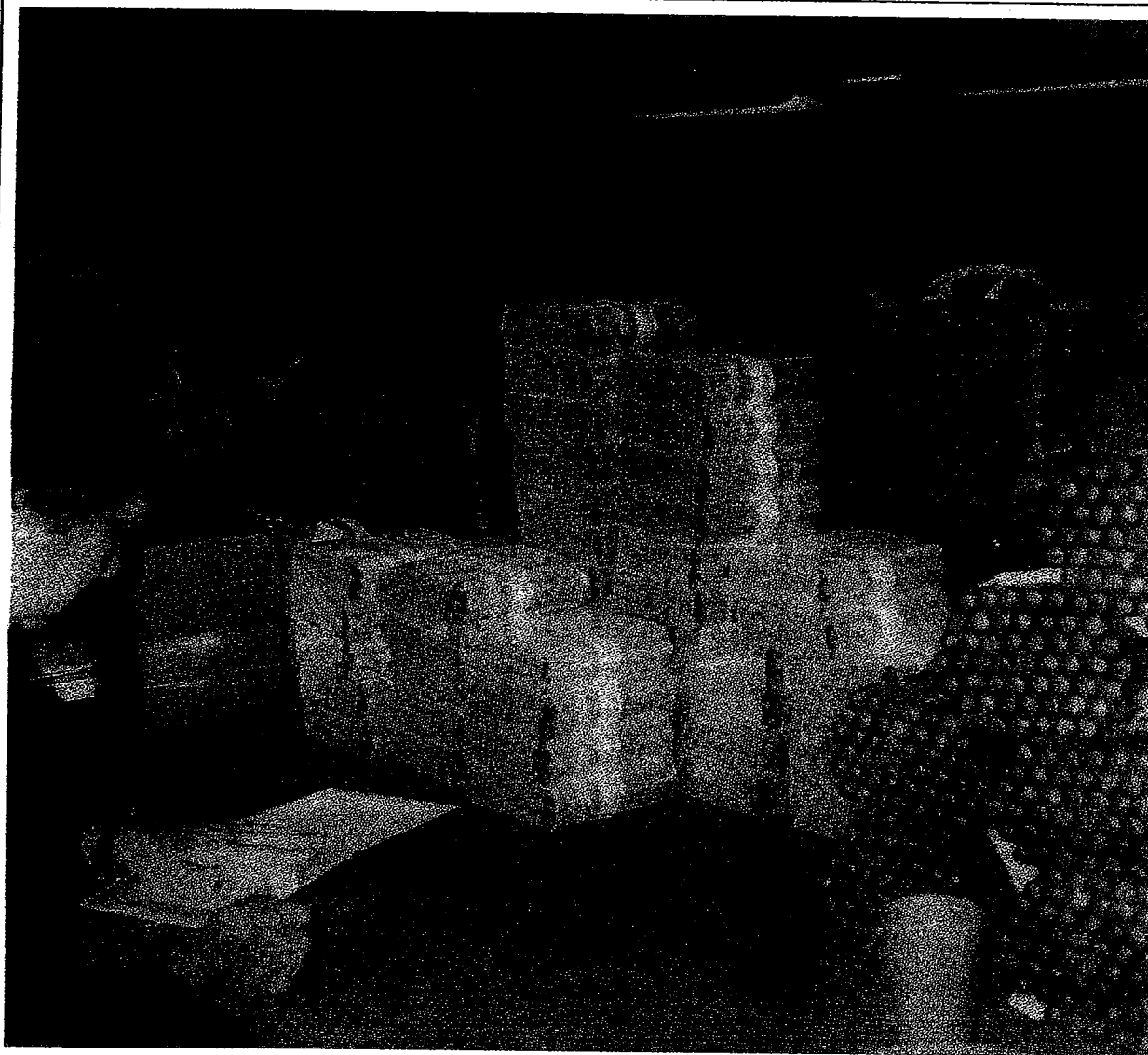
While this is being done with the wrapper leaves, the binder and the blend of filler that will be used in a specific vitola are prepared at



The capa is hung to dry and stabilize after it has been dampened.

The *Casa de Partagas* is just one of the many factories producing Havana cigars. This 1996 photo shows the factory as it now exists. It is visited daily by hundreds of foreign aficionados who buy their favorite cigars at about 30% of the price in their own country.





The final process is putting the cigars carefully into the boxes and being sure they are of uniform size.

From the lockers, the cigars are taken to the color sorting room where they are expertly grouped to ensure that every layer in the boxes shows a perfectly even hue. Before the final packaging, each cigar is banded with a paper ring that identifies the brand. These bands are designed in countless forms and are generally very attractive. The bands and the beautiful prints that embellish the boxes make Havana cigars a highly refined product.


Finally, as part of the quality control procedures in every factory, a panel of tasters checks the organoleptic characteristics of the product by smoking samples of each batch of cigars. The Tasting Committee has

a specially designed room where each taster can individually smoke and determine the quality of the product without any influence from his fellow tasters nor any prior information about the samples being evaluated, since these are always blind tests.

The judgement passed by the Tasting Committee on the finished cigars constitutes one of the determining factors for the approval of their commercialization as superior quality products. These rigorous tests and the strict technical control applied from the agricultural phase of tobacco up to its final stage in the industry help preserve the unaltered quality that distinguishes Habanos cigars throughout the world.

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Estas armas de Cifuentes  
Que dio el Infante Pelayo  
Las pintan con grande ensayo  
Segun lo saben las gentes.

Y este tal aun con los dientes  
Mas fuerte que este leon  
Pelao en su defensa  
Con las cruces aparentes



ASTC

FLOR DE

# CUBAN CIGAR TOBACCO

## WHY CUBAN CIGARS ARE THE WORLD'S BEST

The author, Eumelio Espino Marrero, was born in Ciego de Avila, Cuba on May 8, 1947. In 1968 he began his studies on plant genetics with emphasis on plant improvement. By 1970 he had specialized in tobacco.

In 1983 Mr. Marrero graduated as an agricultural expert from the Instituto Superior de Ciencias Agricolas (The Higher College for Agriculture) in Havana.

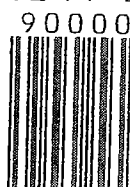
In 1985 he became the Scientific Sub-director of the Cuban Tobacco Research Center where he concentrated on the development of better grades of tobacco. He has developed five new varieties of tobacco which are now in full production in Cuba and has received national acclaim for his achievements in this field. He publishes regularly on the subject and has 40 articles to his credit on the genetics of tobacco.

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### **CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the Deposition of Eumelio Espino Marrero, and Exhibits thereto, was served on Applicant by mailing, postage prepaid, said copy on June 29, 2007, via U.S. Mail, postage prepaid, to:

Jesus Sanchelima, Esq.  
SANCHELIMA & ASSOCIATES, P.A.  
235 S.W. Le Jeune Road  
Miami, FL 33134-1762

Counsel for Applicant Annecas, Inc.

  
\_\_\_\_\_  
DAVID B. GOLDSTEIN

TRADEMARK  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Application  
Serial No. 78/363024  
Filed February 5, 2004  
For the mark HAVANA CLUB  
Published in the Official  
Gazette on December 14, 2004

CORPORACION HABANOS, S.A.,

Opposer,

V.

ANNCAS, INC.,

Applicant.

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Opposition No. 91165519

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DEPOSITION ON WRITTEN QUESTIONS OF

MANUEL GARCIA MOREJON

MAY 15, 2007

\*\*\*\*\*

DEPOSITION ON WRITTEN QUESTIONS of MANUEL GARCIA MOREJON, produced as a witness at the instance of the Opposer, and duly sworn, was taken in the above-styled and numbered cause on the 15th day of May, 2007, from 8:51 a.m. to 11:34 a.m., before Monique M. Hinchcliff, CSR in and for the State of Texas, reported by machine shorthand, at the office of AROCHI, MARROQUIN & LINDER, Torre Mural, Insurgentes Sur 1605, 20th Floor, 03900 MEXICO, D.F. MEXICO.

COPY

A P P E A R A N C E S

FOR THE OPPOSER:

BY: Mr. David B. Goldstein  
RABINOWITZ, BOUDIN, STANDARD, KRINSKY &  
LIEBERMAN, P.C.

111 Broadway, 11th Floor  
New York, New York 10006

PRESENT FROM HABANOS, S.A.:

BY: Lic. Manuel Garcia  
HABANOS, S.A.

Calle 3ra No. 2006 e/ 20 y 22  
Miramar, Playa  
Ciudad de la Habana, Cuba

The Interpreters: Maria Esther Lemus  
Veronica Mendez

\* \* \* \* \*



## I N D E X

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-o-O-o-

1 MANUEL GARCIA MOREJON,  
2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 OPPOSER'S DIRECT WRITTEN QUESTIONS

5 Question No. 1:

6 Q. Please state your full name and residence  
7 address for the record.

8 A. My name is Manuel Garcia Morejon. I live in  
9 District D, Number 508 in Havana, Cuba.

10 Question No. 2:

11 Q. Do you understand that you are under oath?

12 A. Yes.

13 Question No. 3:

14 Q. Is there any reason that you cannot testify  
15 truthfully today?

16 A. None.

17 Question No. 4:

18 Q. Are you taking any medicine that might impair  
19 your ability to answer the questions truthfully and  
20 accurately?

21 A. No.

22 Question No. 5:

23 Q. Do you understand that I will be reading  
24 questions that have been prepared by the lawyers in  
25 this case?

1           A.     Yes.

2       Question No. 6:

3           Q.     Do you understand that these questions will  
4       be translated into Spanish by the interpreter here,  
5       that you are to answer these questions in Spanish,  
6       that the interpreter will translate your answers into  
7       English, and that I will record the English answers?

8           A.     Yes.

9       Question No. 7:

10          Q.     If you want me or the interpreter to repeat a  
11       question again, please tell the interpreter to do so,  
12       okay?

13          A.     Yes.

14       Question No. 8:

15          Q.     Do you understand that if you do not  
16       understand a question, I can only repeat the question;  
17       I cannot clarify, or reformulate or explain the  
18       question:

19          A.     Yes.    Okay.

20       Question No. 9:

21          Q.     If an attorney has made an objection to a  
22       question, I will read the objection after I have read  
23       the question. Please do not answer the question until  
24       I have read both the question and any objection, and  
25       they have both been translated into Spanish, all

1 right?

2 A. Okay.

3 Question No. 10:

4 Q. If you need a break, please tell me, and we  
5 will take a break after you have answered a pending  
6 question, all right.

7 A. Yes. All right.

8 Question No. 11:

9 Q. Are you a citizen of the Republic of Cuba?

10 A. Yes.

11 Question No. 12:

12 Q. Are you a citizen of any other country?

13 A. No.

14 Question No. 13:

15 Q. Is Spanish your primary language?

16 A. Yes.

17 Question No. 14:

18 Q. Do you speak English or understand spoken  
19 English?

20 A. Yes. A little bit.

21 Question No. 15:

22 Q. Do you consider yourself fluent in speaking  
23 English and understanding spoken English?

24 A. No.

25 Question No. 16:

1 Q. Are you able to read English?

2 A. Yes.

3 Question No. 17:

4 Q. Are you aware that this matter involves a  
5 dispute between Corporacion Habanos, S.A. and a  
6 company in the United States, Anncas, Inc., concerning  
7 Anncas's attempt to register HAVANA CLUB as a  
8 trademark for cigars in the United States?

9 A. Yes.

10 Question No. 18:

11 Q. Are you also aware that the Applicant does  
12 not currently sell "Havana-Club"-labeled cigars in the  
13 United States or elsewhere?

14 A. No.

15 Question No. 19:

16 Q. Prior to your involvement in this proceeding,  
17 were you aware of the United States company Anncas,  
18 Inc.?

19 A. No.

20 Question No. 20:

21 Q. Do you know who William Bock is?

22 A. No.

23 Question No. 21:

24 Q. What is your educational background after  
25 high school, including the names of any schools, dates

1 attended, areas of study, and any degrees received?

2 A. I have a bachelor's degree in foreign  
3 affairs -- in foreign trade, I'm sorry, and I have a  
4 specialization in marketing. I studied in Berlin in  
5 the old democratic republic of Germany and I received  
6 my bachelor's degree in 1982.

7 Question No. 22:

8 Q. Are you currently employed by Corporacion  
9 Habanos, S.A.?

10 A. Yes.

11 Question No. 23:

12 Q. I will usually refer to Corporacion Habanos,  
13 S.A. either as Habanos, or Habanos, S.A., is that  
14 clear?

15 A. Yes.

16 Question No. 24:

17 Q. Describe the type of business in which  
18 Habanos is engaged.

19 A. The corporation, Habanos, S.A., is  
20 responsible of the commercialization of all the Cuban  
21 tobacco products, excluding cigarettes all over the  
22 world. It's the one that give us the guidelines for  
23 the marketing strategies, the cost strategies for all  
24 these products at the world level.

25 Question No. 25:

1 Q. What is your current position and title with  
2 Habanos?

3 A. I am the corporate vice president of --  
4 commercial vice president of the corporation.

5 Question No. 26:

6 Q. Since what year have you been employed by  
7 Habanos?

8 A. Since its foundation in the year 1994.  
9 Question No. 27:

10 Q. How long have you been in your current  
11 position?

12 A. Eleven years.

13 Question No. 28:

14 Q. Please describe your primary responsibilities  
15 in that position.

16 A. I am responsible for the commercialization of  
17 all the Cuban tobacco excluding cigarettes, especially  
18 Habanos cigars, Habanos. Everything that has to do  
19 with the marketing of the products, their promotion,  
20 cost strategies, introduction of our products in new  
21 markets. In general terms, the commercialization of  
22 Habanos all over the world.

23 Question No. 29:

24 Q. In particular, what are your responsibilities  
25 concerning the promotion and marketing of Cuban-origin

1 cigars?

2 A. Well, I am the direct responsible of these  
3 activities within the Habanos corporation. That means  
4 that I am responsible of setting all the marketing  
5 strategies directed to the commercialization of these  
6 products in regards to cost, distribution,  
7 commercialization, promotion, advertising, PR --  
8 public relations, I mean -- and also the export from  
9 Cuba, Habanos to all over the world.

10 Question No. 30:

11 Q. For what areas of the world are you  
12 responsible?

13 A. All over the world excluding the North  
14 American market. Because legally we cannot  
15 commercialize or trade our products in that country.

16 THE INTERPRETER: By North America he  
17 means the United States.

18 THE WITNESS: (In English) The United  
19 States of America.

20 Question No. 31:

21 Q. Do your responsibilities include awareness of  
22 trademark registrations of Habanos, S.A. throughout  
23 the world?

24 A. What do you mean by awareness? Yes. In my  
25 responsibility, I am aware of all the records that has



1 been made by the Habanos corporation, however, I am  
2 not responsible for them.

3 Question No. 32:

4 Q. Does this knowledge include trademark  
5 registrations in the United States?

6 A. Yes, in the general sense.

7 Question No. 33:

8 Q. What is the Comite de Direccion of Habanos,  
9 S.A., including its responsibilities?

10 A. The Comite de Direccion of Habanos, S.A. is  
11 the executive direction organizing in charge of the  
12 daily operations. They are in charge of everything.  
13 They execute the strategies that the administrators  
14 are setting up. It's a body that meets at least once  
15 a month.

16 Question No. 34:

17 Q. Are you a member of that body?

18 A. Yes.

19 Question No. 35:

20 Q. What is the Consejo de Administracion of  
21 Habanos, S.A., including its responsibilities?

22 A. This body, the Consejo de Administracion of  
23 Habanos, S.A. is the maximum executive body. They  
24 meet every three months and they are in charge of the  
25 administration, managing. They are the ones that set

1 up all the strategies and then the Comite de Direccion  
2 is the one that executes these strategies. They are  
3 the maximum responsables of managing and  
4 administrating the corporation.

5 Question No. 36:

6 Q. Are you a member of that body?

7 A. Yes.

8 Question No. 37:

9 Q. Do you travel outside of Cuba in connection  
10 with your work for Habanos?

11 A. Yes. A lot.

12 Question No. 38:

13 Q. Since 2000, approximately how often each year  
14 do you travel outside Cuba in connection with your  
15 employment with Habanos?

16 A. All -- every month. All the months.

17 Question No. 39:

18 Q. What are some of the countries that you have  
19 traveled to since 2000?

20 A. Let's start with the main markets. In  
21 Europe, Spain, France, Germany, England, Hong Kong,  
22 Asia, Japan, China, Australia, Canada, Argentina  
23 Mexico. Practically all the countries. Currently,  
24 Habanos is present in most all the countries of the  
25 world with the exception of the United States.

1 Question No. 40:

2 Q. Have you ever traveled to the United States  
3 on behalf of Habanos?

4 A. Only once.

5 Question No. 41:

6 Q. If so, when?

7 A. In the year 2000.

8 Question No. 42:

9 Q. Did you testify under oath in 2000 at a  
10 deposition involving litigation in the United States  
11 court in New York City between the Cuban cigar  
12 enterprise known as Cubatabaco and the American cigar  
13 company, General Cigar, concerning a dispute over the  
14 COHIBA cigar mark?

15 A. Yes.

16 Question No. 43:

17 Q. Where did that deposition take place?

18 A. In New York.

19 Question No. 44:

20 Q. Describe any previous positions you held with  
21 Habanos, including the dates, job titles and primary  
22 responsibilities?

23 A. In Habanos, I have only been vice president;  
24 commercial vice president.

25 Question No. 45:

1 Q. Have you had any other employment in the  
2 tobacco or cigar industry?

3 A. Yes. Before being the vice president of  
4 Habanos, I was the general manager of the company, the  
5 exclusive dealers or distributors in Germany of the  
6 Habanos.

7 Question No. 46:

8 Q. If yes, identify your prior employers in the  
9 tobacco or cigar industry, including the name and  
10 location by city and country for each such employer.

11 A. The company where I was a general director,  
12 the name was Fifth Avenue. Products trading. They  
13 were located in Germany in the city of  
14 Waldshut-Tiengen.

15 Question No. 47:

16 Q. For each such employer in the tobacco or  
17 cigar industry, please describe the nature and type of  
18 that employer's business.

19 A. Precisely as I told you, I was in Fifth  
20 Avenue and I was the general director for that  
21 company. I was the top executive, the highest ranking  
22 executive that I was in charge of the daily activities  
23 of the company. And that was the marketing, the  
24 commercialization, the distribution, the promotion,  
25 all the Habanos in Germany. Then after that, in

1 Habanos.

2 Question No. 48:

3 Q. For each such employer, what were your dates  
4 of employment?

5 A. In Germany in Fifth Avenue since the year  
6 1990 to the beginning of 1996. In the Habanos  
7 Corporation, since 1996 up to date.

8 Question No. 49:

9 Q. For each such employer, describe your job  
10 responsibilities, including your position and title.

11 A. Well, I have explained this to you  
12 practically. I said that I've seen in both cases the  
13 responsible of the commercialization, distribution,  
14 marketing, promotion of the Habanos. In the case of  
15 the Fifth Avenue in the German markets, both  
16 responsible for the local -- for the local market and  
17 the duty free in Habanos for the entire world.

18 Question No. 50:

19 Q. Have you had any other employment outside the  
20 tobacco or cigar industry?

21 A. Yes.

22 Question No. 51:

23 Q. If yes, identify your prior employers outside  
24 the tobacco industry, including the name and location  
25 by city and country for each such employer.

1           A.    Well, before going to Germany for the Fifth  
2 Avenue company, I was employee of the ministry of  
3 foreign commerce of the Republic of Cuba and I was a  
4 specialist in under the vice ministry of exports. And  
5 among my duties, I had to research markets for the  
6 traditional products to be exported from the Cuban  
7 market.

8 Question No. 52:

9           Q.    For each such employer, what were your dates  
10 of employment?

11          A.    In the ministry of foreign commerce, I was  
12 there since 1982 up to the year 1990 when I went to  
13 Germany.

14 Question No. 53:

15          Q.    For each such employer outside the tobacco  
16 industry, please describe the nature and type of that  
17 employer's business.

18          A.    The name of the position that I had was  
19 researcher of commercial markets, and I repeat, I was  
20 responsible for marketing research for the traditional  
21 products to be exported from Cuba. That's the only --  
22 all the time I was in that position, in that place.

23 Question No. 54:

24          Q.    Are you familiar with Cigar Aficionado  
25 magazine?

1 A. Yes.

2 Question No. 55:

3 Q. Is it a United States publication?

4 A. Yes.

5 Question No. 56:

6 Q. What type of magazine is Cigar Aficionado?

7 A. The Cigar Aficionado magazine, as the name  
8 tells, is a specialized magazine in cigars.

9 Question No. 57:

10 Q. Is it your understanding that the main  
11 readership for Cigar Aficionado are American cigar  
12 consumers?

13 A. Yes, they are cigar consumers. They are  
14 consumers, not American consumers. Consumers in  
15 general. Maybe they are general cigar consumers.

16 Question No. 58:

17 Q. Has Habanos advertised in Cigar Aficionado?

18 A. Yes.

19 Question No. 59:

20 Q. Are you familiar with Smoke magazine?

21 A. Yes.

22 Question No. 60:

23 Q. Is Smoke a United States publication?

24 A. Yes.

25 Question No. 61:

1 Q. What type of magazine is Smoke?

2 A. Pretty similar to Cigar Aficionado. It's a  
3 specialized magazine in cigars. And it's mainly  
4 focused or directed to the consumers of cigars.

5 Question No. 62:

6 Q. Is it your understanding that the main  
7 readership for Smoke magazine are American cigar  
8 consumers?

9 A. Yes.

10 Question No. 63:

11 Q. Does Habanos advertise in Smoke magazine?

12 A. Yes.

13 Question No. 64:

14 Q. As part of your job responsibilities, do you  
15 regularly read Cigar Aficionado and Smoke?

16 A. Yes.

17 Question No. 65:

18 Q. Do you regularly read the articles concerning  
19 Cuba or Cuban cigars?

20 A. Yes.

21 Question No. 66:

22 Q. Have you been interviewed by reporters for  
23 either Cigar Aficionado or Smoke magazines in  
24 connection with the Cuban cigar industry?

25 A. Yes.



1 Question No. 67:

2 Q. Approximately how often?

3 A. At least once a year.

4 Question No. 68:

5 Q. Have you met with other American journalists  
6 or writers concerning the Cuban cigar industry?

7 A. It's possible, yes.

8 Question No. 69:

9 Q. Have you heard or seen the English word  
10 "Havana" or "Havanas" used in connection with cigars?

11 A. Yes.

12 Question No. 70:

13 Q. What do those terms, "Havana" or "Havanas,"  
14 mean when used in connection with cigars?

15 A. The term Havana or Havanas mainly for the  
16 English speaking people, Anglo-Saxons, typically when  
17 they want to express when they are using this term is  
18 the cigars coming from Cuba.

19 Question No. 71:

20 Q. What does the term "Havana cigar" mean?

21 A. The cigars coming from Cuba that are produced  
22 in Cuba that are produced hundred percent with Cuban  
23 raw material under the quality parameters that have  
24 been established by the official manufacturing plants  
25 in Cuba. That's the term Havana cigar.

1 Question No. 72:

2 Q. In your experience, do English speakers  
3 interchangeably use the English language terms "Havana  
4 cigar" and "Cuban cigar"?

5 A. Yes. For the Cuban cigar, yes.

6 Question No. 73:

7 Q. Are you aware of English-language cigar books  
8 published in the United States that use the term  
9 "Havana" in the title to refer to cigars from Cuba?

10 A. Yes.

11 Question No. 74:

12 Q. Can you give some examples of such titles?

13 A. Yes. For example, there is a book that is  
14 very famous and it was written from Hong Kong, advised  
15 by Cuban people. It's called an illustrated  
16 Encyclopedia Revolution of the Havana Cigars that is  
17 very famous and it's very used. There is another one,  
18 the Consumer Guide of the Havana Cigar written by a  
19 very famous retailer from Switzerland. His name is  
20 Gerard, and there is another one, very famous,  
21 Perryman Encyclopedia of Havana Cigar, just to name a  
22 few. These are the ones that are most used.

23 Question No. 75:

24 Q. Are you aware of English-language cigar books  
25 published in the United States that use the term

1 "Havana" in the text of the books to refer to cigars  
2 from Cuba?

3 A. Yes. Precisely the three that I just  
4 mentioned to you. Even in the title of the book the  
5 terms Havana cigars appear. And, of course, in the  
6 text, many times it's repeatedly appeared, these three  
7 books that I mentioned to you before. I would say  
8 that these are the most known and the most used books.

9 Question No. 76:

10 Q. In reading articles in Cigar Aficionado or  
11 Smoke magazine, have you seen the word "Havana" used  
12 to refer to a cigar from Cuba?

13 A. Yes.

14 Question No. 77:

15 Q. In interviews or meetings with journalists,  
16 writers or others from the United States, do they  
17 commonly use the words "Havana cigar" or "Havanas" to  
18 refer to cigars from Cuba?

19 OBJECTION: As to question no. 77, it is  
20 immaterial and irrelevant what they use to refer to  
21 cigars from Cuba. Furthermore, the designation in  
22 question here is HAVANA CLUB.

23 THE WITNESS: Yes.

24 Question No. 78:

25 Q. Are you aware whether any cigar companies in

1 the U.S. use the word "Havana" as part of the name of  
2 a cigar brand that they sell in the United States?

3 A. Yes.

4 Question No. 79:

5 Q. Other than such use of "Havana" as part of  
6 the name of a cigar brand in the United States, have  
7 you ever seen or heard the words "Havana" or  
8 "Havanas," used in connection with cigars, to mean  
9 anything other than a cigar from Cuba?

10 A. No.

11 Question No. 80:

12 Q. If a cigar is not manufactured in Cuba and is  
13 not made from Cuban grown tobacco, is that cigar a  
14 "Havana," or a "Havana cigar"?

15 A. No.

16 Question No. 81:

17 Q. What does the word "Habanos" mean in  
18 connection with cigars?

19 OBJECTION: As to question nos. 81 and  
20 82. There is no geographical limitation and thus  
21 irrelevant insofar as the relevant U.S. market is not  
22 affected.

23 THE WITNESS: I already mentioned this  
24 before. As I told you, for me, that ban what van  
25 Habano or Habanos cigar is a product elaborated in

1 Cuba that contains hundred percent of raw material  
2 coming from Cuban raw material elaborated under  
3 quality parameters that are set by the manufacturing  
4 plant officials in Cuba and that's it. It's a product  
5 that it's manufactured in Cuba with Cuban raw  
6 materials in official manufacturing plants in Cuba.

7 Question No. 82:

8 Q. What does the word "Habano" mean in  
9 connection with cigars?

10 A. The same as I answered in the previous  
11 question.

12 Question No. 83:

13 Q. Have you heard the terms "Habano" or  
14 "Habanos" used by English speakers to refer to cigars  
15 from Cuba?

16 OBJECTION: As to questions no. 83 and  
17 84. There is no foundation to infer that what the  
18 witness' perception is of the word HABANOS extends to  
19 the rest of the U.S. population. Irrelevant as to  
20 other non-US English speakers could interpret the word  
21 HABANO or HABANOS to mean.

22 THE WITNESS: Yes.

23 Question No. 84:

24 Q. Have you heard the terms "Habano" or  
25 "Habanos" used by English speakers form the United

1 States to refer to cigars from Cuba?

2 A. Yes.

3 Question No. 85:

4 Q. Have you read articles in Cigar Aficionado in  
5 which the term "Habano" or "Habanos" is used to  
6 describe Cuban-origin cigars?

7 OBJECTION: As to question 85. Vague  
8 and the documents speak for themselves.

9 THE WITNESS: Yes. The response is yes.

10 Question No. 86:

11 Q. In connection with your job responsibilities  
12 at Habanos, S.A., are you knowledgeable about  
13 registrations of Cuban appellations (or denominations)  
14 of origin relating to cigars and tobacco?

15 A. Yes.

16 Question No. 87:

17 Q. As part of your job responsibilities as Vice  
18 President of Habanos, have you previously seen  
19 certificates of Cuban appellation (or denomination) of  
20 origin registrations relating to cigars and tobacco?

21 A. Yes.

22 Question No. 88:

23 Q. Is the term "Habanos" registered as an  
24 appellation of origin for cigars from Cuba under any  
25 international agreement or treaty?

1                   OBJECTION: As to question nos. 88  
2 through 124 and Exhibit "1," these questions and  
3 foreign registration as irrelevant to these  
4 proceedings. Double J. of Broward, Inc. v. Skalony  
5 Sportswear GmbH, 21 U.S.P.A. 2d. 1609 (TTAB 1991).  
6 Opposer has not used its purported denomination of  
7 origin in the United States and thus has no actionable  
8 rights that could be damaged by the registration of  
9 the application mark.

10                   THE WITNESS: Yes. The Lisbon agreement  
11 or treaty. The Lisbon arrangement, agreement.

12 Question No. 90:

13           Q. Please review the document what I am handing  
14 to you that has been marked as Garcia Morejon Exhibit  
15 1. Do you recognize that document?

16           A. It's the registration certificate for the  
17 origin appellation international registration from the  
18 Habanos word at the Republic of Cuba for cigars.

19 Question No. 91:

20           Q. What do you recognize this Exhibit 1 to be?

21           A. This is a registration certificate for the  
22 origin appellation international registry for the  
23 Habanos word by the Cubatabaco company. This is made  
24 by the Cuban tobacco company which is Empresa Cubana  
25 del Tabaco for the word Habanos.

1 Question No. 92:

2 Q. Is this the international "Habanos"  
3 appellation of origin registration that you were just  
4 discussing?

5 A. Yes.

6 Question No. 93:

7 Q. Are you familiar with this registration in  
8 connection with your work?

9 A. Yes.

10 (Opposer offers Garcia Morejon Exhibit 1  
11 in evidence.)

12 Question No. 94:

13 Q. What does the word "Habana" mean in  
14 connection with cigars?

15 A. I've heard that some other times. For me as  
16 for many other people it means cigars that are made in  
17 Cuba with 100 percent Cuban raw material made at the  
18 official manufacturing plants in Cuba under very  
19 demanding parameters of quality set by those  
20 manufacturing plants in Cuba and 100 percent made in  
21 Cuba.

22 Question No. 95:

23 Q. Is "Habana" also the Spanish word for  
24 "Havana," the capital city of Cuba?

25 A. Yes.



1 Question No. 96:

2 Q. Is the term "Habana" registered as an  
3 appellation of origin for tobacco and tobacco products  
4 from the Province of Havana, Cuba under any  
5 international agreement or treaty?

6 A. Yes.

7 Question No. 97:

8 Q. If so, what international agreement?

9 A. The Lisbon agreement.

10 Question No. 98:

11 Q. Please review the document that I am handing  
12 to you that has been marked as Garcia Morejon Exhibit  
13 2. Do you recognize that document?

14 A. Yes.

15 Question No. 99:

16 Q. What do you recognize this Exhibit 2 to be?

17 A. This is the registration certificate for the  
18 appellation of origin international registry for the  
19 word Habana made by the company Empresa Cubana del  
20 Tabaco (Cubatabaco). And it's related to the word  
21 Habana, with a B, as a tobacco leaf or manufactured as  
22 a cigar leaf or manufactured tobacco as well as  
23 products made with such tobacco and made at the  
24 province of Havana.

25 Question No. 100:

1 Q. Is this the "Habana" appellation of origin  
2 registration that you were just discussing?

3 A. Yes.

4 Question No. 101:

5 Q. Are you familiar with this registration in  
6 connection with your work?

7 A. Yes.

8 (Opposer offers Garcia Morejon Exhibit 2  
9 in evidence.)

10 Question No. 102:

11 Q. Does Habanos, S.A. use the "Habanos"  
12 denomination of origin on the packaging of its  
13 Cuban-origin cigars?

14 A. Yes.

15 Question No. 103:

16 Q. How does it use the "Habanos" denomination of  
17 origin on its cigar packaging?

18 A. With the sticker Habanos which is the  
19 definition of origin like the one over there.

20 Question No. 104:

21 Q. Please review the document that I am handing  
22 to you that has been marked as Garcia Morejon Exhibit  
23 3, with the Bates numbers HAB0039-40 appearing in very  
24 tiny print. Do you recognize that document?

25 A. Yes.

1 Question No. 105:

2 Q. What do you recognize that document to be?

3 A. This is a package of Cuban product called  
4 Montecristo No. 5. It's not No. 5, it's No. 3. It's  
5 No. 3. Means it's five cigars of Montecristo No. 3.  
6 This is a photocopy. On the top right side is the  
7 sticker I was talking about previously which is the  
8 denomination of origin protected for Habanos that we  
9 use in all packages for the Habanos products. On the  
10 other side shows the back of that package showing on  
11 the top right side the warranty and certificate and it  
12 mentions it's a product made by Habanos, S.A. It says  
13 it is made in Cuba, entirely handmade.

14 Question No. 106:

15 Q. Please describe how the term "Habanos"  
16 appears on this photocopy?

17 A. I already explained. It appears on a sticker  
18 on the top right side meaning it is the denomination  
19 of origin protected for Habanos. The Habanos  
20 appellation of origin. I repeat, this is the Habanos  
21 appellation of origin protected.

22 Question No. 107:

23 Q. Are you familiar with this packaging in  
24 connection with your work for Habanos, S.A.?

25 A. Yes.

(Opposer offers Garcia Morejon Exhibit 3  
in evidence.)

Question No. 108:

Q. Does Habanos, S.A. place the "Habanos" logo  
that appears on Exhibit 3 on the packaging of its  
other cigar products?

A. Habanos, S.A., the corporation, places the  
Habanos logo in all the packaging for Habanos cigars.

Question No. 109:

Q. Why does it use the "Habanos" denomination of  
origin logo on all its packaging?

A. To identify the origin and to identify it is  
an Habano as to differentiate from other products  
which are not from Cuba.

Question No. 110:

Q. Do you see the words "Hecho en Cuba" on the  
photocopy of the back of the cigar box in Exhibit 3?

A. Yes.

Question No. 111:

Q. What do the words "Hecho en Cuba" mean?

A. That the product has been made in Cuba. It  
indicates what that product comes from.

Question No. 112:

Q. Does Habanos place the words "Hecho en Cuba"  
on its cigar packaging for all of its cigar products?

1 A. Yes.

2 Question No. 113:

3 Q. Why does Habanos place the words "Hecho en  
4 Cuba" on its cigar boxes?

5 A. To indicate where the product comes from,  
6 that it has been made in Cuba.

7 Question No. 114:

8 Q. On the photocopy of the front of the cigar  
9 box in Exhibit 3, do you see the words "Habana Cuba"?

10 A. Yes.

11 Question No. 115:

12 Q. What do the words "Habana Cuba" refer to on  
13 the Habanos, S.A.'s cigar packaging?

14 A. It refers to where the product comes from,  
15 that it's an Habano and it has been made in Cuba.

16 Question No. 116:

17 Q. Does Habanos place the words "Habana Cuba" on  
18 its cigar packaging?

19 A. Yes.

20 Question No. 117:

21 Q. Why does Habanos place the words "Habana  
22 Cuba" on its cigar packaging?

23 A. To reflect the place the product comes from,  
24 that it's a Cuban product made in Cuba.

25 Question No. 118:

1 Q. Still looking at Exhibit 3, can you identify  
2 the green and white sticker appearing on HAB 39 and  
3 40?

4 A. Yes.

5 Question No. 119:

6 Q. What is that sticker?

7 A. That's the official warranty seal of the  
8 Republic of Cuba.

9 Question No. 120:

10 Q. Is it placed on all Habanos cigar boxes?

11 A. Yes.

12 Question No. 121:

13 Q. Do the cigars that Habanos, S.A. markets  
14 throughout the world use only tobacco grown in Cuba?

15 A. Yes.

16 Question No. 122:

17 Q. Are the cigars that Habanos, S.A. markets  
18 throughout the world manufactured only in Cuba?

19 A. Yes.

20 Question No. 123:

21 Q. Does Habanos want cigar consumers to know  
22 that its cigars are manufactured in Cuba using only  
23 tobacco grown in Cuba?

24 A. Yes.

25 Question No. 124:

1 Q. Why is that?

2 A. It's for identification purposes and to make  
3 a differentiation in order for the consumer not to be  
4 confused, that they know that Habanos are the best  
5 cigars produced only in Cuba.

6 Question No. 125:

7 Q. Based on your experience in the cigar  
8 industry, do cigars made in Cuba from Cuban tobacco  
9 have a particular reputation?

10 A. Yes.

11 Question No. 126:

12 Q. What is that reputation?

13 A. The specialist and the people, the  
14 connoisseurs and experts consider them the best cigars  
15 in the world.

16 Question No. 127:

17 Q. Based on your experience in the cigar  
18 industry, does that reputation of Cuban cigars extend  
19 to cigar consumers in the United States?

20 A. Yes.

21 Question No. 128:

22 Q. What is the basis for that view?

23 A. The publications we discussed previously that  
24 are oriented to the cigar consumers, Cigar Aficionado  
25 and Smoke, and in my work as I travel a lot all over

1 the world, I have met North American citizens, smokers  
2 who have referred to the Habana cigars as the best in  
3 the world. They are aware of that reputation. We  
4 normally meet at trade fairs, expos, events that are  
5 organized all over the world.

6 Question No. 129:

7 Q. Since you have been Vice President of  
8 Habanos, S.A. in 1996 to the present, has Habanos ever  
9 supplied Cuban cigar leaf or Cuban tobacco to any  
10 person or enterprise in Honduras, Nicaragua, or the  
11 Dominican Republic for their use in the manufacture of  
12 any product?

13 A. No.

14 OBJECTION: As to question nos. 129  
15 through 136, the proper foundation has not been laid  
16 to show that the deponent would know whether anyone  
17 has brought Cuban tobacco seeds to other countries in  
18 the recent past. The U.S. embargo, until recently,  
19 permitted limited importation of Cuban goods.  
20 Nationals from Central America and other countries  
21 never had the limitations that U.S. citizens and  
22 residents have. Therefore, it is not relevant whether  
23 the witness has supplied cigar leaves or seeds to  
24 anyone, including Applicant or its principals.

25 Question No. 130:



1 Q. Since you have been Vice President of  
2 Habanos, S.A. in 1996 to the present, has Habanos,  
3 S.A. ever supplied Cuban cigar leaf or Cuban tobacco  
4 to William Bock or Anncas, Inc., or to any other  
5 company associated with William Bock?

6 A. No.

7 Question No. 131:

8 Q. Since you have been Vice President of  
9 Habanos, S.A. in 1996 to the present, has Habanos,  
10 S.A. supplied Cuban cigar leaf or Cuban tobacco to any  
11 person or company for the manufacture of cigars  
12 intended for use in the United States?

13 A. No.

14 Question No. 132:

15 Q. If Applicant's "Havana Club"-labeled cigars  
16 are made in Nicaragua or elsewhere outside of Cuba,  
17 from tobacco that is not grown in Cuba, are these  
18 cigars "Havana" cigars?

19 A. No.

20 Question No. 133:

21 Q. If not, why not?

22 A. As I have previously said, the Habana cigars  
23 are cigars made in Cuba with 100 percent Cuban raw  
24 material at the official manufacturing plants in Cuba  
25 under very demanding quality parameters set by those

1 plants.

2 Question No. 134:

3 Q. Are you aware of claims made by people or  
4 companies in the cigar industry in the United States  
5 that their non-Cuban cigars are made from something  
6 they call "Cuban seed" tobacco?

7 A. Yes, I'm aware.

8 Question No. 135:

9 Q. What is your understanding of such claims of  
10 "Cuban seed" tobacco?

11 A. My understanding is this Cuban seed tobacco  
12 is some -- that at certain point in time, seeds were  
13 brought from Cuba to another place and they grew the  
14 tobacco from those seeds somewhere else but it should  
15 have been more than 40 years ago because right now it  
16 is forbidden. It's totally illegal to extract any of  
17 these seeds from Cuba for somebody has done it, they  
18 should have done it against the law.

19 Question No. 136:

20 Q. To your knowledge, is it possible to look at  
21 or smoke a cigar and tell if it is made from tobacco  
22 that is grown from seeds that are several generations  
23 descended from seeds taken from Cuba?

24 A. That's not possible to my knowledge.

25 Question No. 137:

1       Q.    Are you aware that the Applicant here claims  
2   in this proceeding that its "Havana-Club"-labeled  
3   cigars will be made from tobacco grown from seeds that  
4   are descendants of seeds taken from Cuba in about  
5   1960?

6               OBJECTION:   Question no. 137  
7   mischaracterized the products of Applicant.   Applicant  
8   intends to purchase Cuban seed tobacco products but  
9   not necessarily from any particular generation.

10              THE WITNESS:   The answer for the  
11   question is no.

12   Question No. 138:

13       Q.    Does that information change your position as  
14   to whether Applicant's "Havana Club"-labeled cigars  
15   are Havana cigars?

16       A.    No.

17   Question No. 139:

18       Q.    Why is that?

19       A.    Because they are not cigars made in Cuba,  
20   they are not made with 100 percent Cuban raw material  
21   at the official manufacturing plants in Cuba.   And  
22   they are not made under the quality parameters set by  
23   those plants.

24   Question No. 140:

25       Q.    Is the Applicant in this case, Anncas, Inc.,

1 in any way associated with Habanos, S.A.?

2 A. No.

3 Question No. 141:

4 Q. Are you aware of any connection between  
5 Applicant's proposed "Havana Club"-labeled cigars and  
6 cigars from Cuba?

7 A. No. None.

8 Question No. 142:

9 Q. Are you aware of any connection between  
10 Applicant's proposed "Havana Club"-labeled cigars and  
11 tobacco grown in Cuba?

12 A. No.

13 Question No. 143:

14 Q. Are you aware of any connection between  
15 Applicant's proposed "Havana Club"-labeled cigars and  
16 either Cuba or Havana?

17 A. No.

18 Question No. 144:

19 Q. Has Habanos, S.A. ever authorized the  
20 Applicant to use "Havana" in connection with its  
21 cigars?

22 OBJECTION: Question no. 144. Same as  
23 fifth objection, above.

24 THE WITNESS: No.

25 Question No. 145:

1 Q. Has Habanos, S.A. ever authorized any company  
2 or person in the United States to use "Havana" in  
3 connection with cigars?

4 A. No.

5 Question No. 146:

6 Q. Are you aware that Habanos, S.A. has  
7 registered with the United States Patent and Trademark  
8 Office the trademark HABANOS UNICOS DESDE 1492 AND  
9 DESIGN?

10 OBJECTION: Question nos. 146 through  
11 149 are irrelevant. The opposition is not based on  
12 Section 2d. Even if it were, Opposer's lack of use of  
13 the mark makes its registration an unenforceable paper  
14 registration.

15 THE WITNESS: Yes.

16 Question No. 147:

17 Q. In connection with your work at Habanos,  
18 S.A., have you seen that registration?

19 A. Yes. Yes.

20 Question No. 148:

21 Q. Please look at what has been marked as Garcia  
22 Morejon Exhibit 4. Do you recognize this document?

23 A. Yes.

24 Question No. 149:

25 Q. What do you recognize this document to be?

1           A.     It's the main registered of the trademark  
2     Habanos Unicos Since 1492 before the Office of Patents  
3     and Trademark Office of the United States. And also  
4     it's registered made by the Corporacion Habanos.

5                     (Opposer offers Garcia Morejon Exhibit 4  
6                     in evidence.)

7     Question No. 150:

8           Q.     If you look at the lower right hand corner  
9     where it says "The English translation of the words  
10    'Habanos Unicos Desde'in the mark is," can you please  
11    read aloud the English translation?

12                    OBJECTION: For question no. 150  
13    Applicant objects since the document speaks for  
14    itself. The translation accepted by the Examiner is  
15    only one possible translation.

16                    THE WITNESS: You told me to read it,  
17    right?

18    Question No. 151:

19           Q.     Is Habanos, S.A. currently able to sell  
20    cigars in the United States?

21           A.     No.

22    Question No. 152:

23           Q.     Why not?

24           A.     Due to the embargo, the blockage existing  
25    since many years ago to enter Cuban products into the

1 American markets, the United States market.

2 Question No. 153:

3 Q. Does Habanos generally consider the United  
4 States cigar market in its marketing strategies for  
5 its brands even though it cannot sell its cigars in  
6 the United States?

7 A. Yes.

8 Question No. 154:

9 Q. Why?

10 A. Because American market, it's a very  
11 important one. It's the leader market in these kind  
12 of products in the world. And we are interested in  
13 promoting there our trademarks so they can know our  
14 products, and when the embargo is lifted, we can enter  
15 with our products and our products are already known  
16 there.

17 Question No. 155:

18 Q. Does Habanos currently advertise in the  
19 United States cigar publication Smoke?

20 OBJECTION: Question nos. 155 through  
21 204. Applicant objects to these questions as being  
22 irrelevant to these proceedings in that this  
23 opposition is not based on Section 2d. Furthermore,  
24 the assertion "HABANOS UNICOS SINCE 1492" is false  
25 since neither Opposer, nor its predecessor in interest

1 can claim to be selling cigars when Cuba was  
2 discovered in 1492. This false statement, even if  
3 advertised and some day used, will not amount to valid  
4 use.

5 THE WITNESS: Yes.

6 Question No. 156:

7 Q. Has Habanos also advertised in the United  
8 States cigar publication Cigar Aficionado?

9 A. Yes.

10 Question No. 157:

11 Q. Does Habanos also advertise in the United  
12 States trade publication Tobacco Journal  
13 International?

14 A. Yes.

15 Question No. 158:

16 Q. Why does Habanos advertise in these United  
17 States publications if it cannot sell cigars to U.S.  
18 consumers today?

19 A. Well, as I told you before, to promote and to  
20 let the audience know our products in that market.  
21 Because it's a very important market for the future of  
22 our products. And that's why we want them to know who  
23 we are and what are we doing.

24 Question No. 159:

25 Q. Does Habanos intend to sell Cuban-origin



1 cigars in the United States as soon as United States  
2 law permits the sale of Cuban cigars in the U.S.?

3 A. Yes.

4 Question No. 160:

5 Q. As Commercial Vice President of Habanos, do  
6 you have responsibility of placing of advertisements  
7 in United States publications?

8 A. Yes.

9 Question No. 161:

10 Q. In its advertisements in the United States,  
11 does Habanos use the stylized "Habanos" logo that also  
12 appears on the Habanos cigar packaging reviewed in  
13 Garcia Morejon Exhibit 3?

14 A. Yes.

15 Question No. 162:

16 Q. In its advertisements in the United States,  
17 does Habanos also use its registered trademark  
18 "HABANOS Unicos Desde 1492"?

19 A. Yes.

20 Question No. 163:

21 Q. In its advertisements in the United States,  
22 does Habanos also use English language versions of its  
23 "HABANOS Unicos Desde 1492" mark?

24 A. Yes.

25 Question No. 164:

1 Q. Please look at what has been marked as Garcia  
2 Morejon Exhibit 5, with the Bates Numbers HAB00264-65.  
3 Can you please identify that document?

4 A. Yes. HAB00264 is the cover for the Cigar  
5 Aficionado of the October month. And the other one,  
6 the other page, is an advertisement of Habanos,  
7 Habanos Unicos Since 1492 in English, where we are  
8 promoting and advertising the different stores, the  
9 specialized Habanos stores that sell Habanos in  
10 London.

11 Question No. 165:

12 Q. What is the date on the magazine cover, HAB  
13 264?

14 A. October 1998.  
15 Question No. 166:

16 Q. Looking at HAB 265, is this an advertisement  
17 of Habanos, S.A.?

18 A. Yes.  
19 Question No. 167:

20 Q. What is shown on the bottom of the  
21 advertisement on HAB 265?

22 A. This one? Unique since 1492 Habanos, the  
23 stylized leaf of the tobacco and in English, the logo.

24 Question No. 168:

25 Q. In the upper right corner, the ad states,

1 "Where to find your Havanas in London/Specialists in  
2 Havanas." What does the term "Havanas" refer to in  
3 this ad?

4 A. To the cigars coming from Cuba, the Habanos.

5 (Opposer offers Garcia Morejon Exhibit 5  
6 in evidence.)

7 Question No. 169:

8 Q. Please look at what has been marked as Garcia  
9 Morejon Exhibit 6, with Bates Numbers HAB00292-97.

10 Can you please identify that document?

11 A. Yes. These are photocopies of some pages  
12 from the Smoke magazine.

13 Question No. 170:

14 Q. Looking at HAB00293, what is the date of the  
15 magazine?

16 A. Winter edition of the Smoke magazine, 1996,  
17 1997.

18 Question No. 171:

19 Q. Can you describe what is being shown on  
20 HAB00296-97?

21 A. The Smoke, the image of smoke, the stylized  
22 image of smoke with the logo in this case with Habanos  
23 in Spanish, in the case of the 296. The word Habanos  
24 with the stylized leaf and the logo in English, and in  
25 297, Habanos in English with the logo in English and

1 our institutional image of the smoke.

2 Question No. 172:

3 Q. Are these advertisements of Habanos, S.A.?

4 A. Well, yes. In 296, yes. 297 is from our  
5 distributor, an exclusive distributor, from Habanos to  
6 a specific region.

7 (Opposer offers Garcia Morejon Exhibit 6  
8 in evidence.)

9 Question No. 173:

10 Q. Looking at HAB 295, what is the "Havana  
11 House"?

12 A. "Havana House" is the company as is stated in  
13 our exclusive distributor in Canada. And I repeat  
14 it's the exclusive distributor of Habanos in Canada.

15 Question No. 174:

16 Q. What does the term "Havana" refer to in  
17 "Havana House"?

18 A. This company is the exclusive distributor for  
19 Habanos in Canada.

20 Question No. 175:

21 Q. What is shown on the bottom of the  
22 advertisement on HAB 283?

23 A. I don't know what do you refer to. However,  
24 in every case here, these are advertisements for  
25 Habanos or for the distributors of Habanos. And in

1 this case, in the case of the 294, it's an  
2 advertisement of the casa de Havana in Canada.

3 Question No. 176:

4 Q. Looking at HAB 297, what is shown at the  
5 bottom of the advertisement?

6 A. The logo. Once again, Habanos in English  
7 with the stylized leaf from the tobacco and the logo  
8 in English. Unique since 1492.

9 Question No. 177:

10 Q. Is that phrase, "HAVANAS Unique since 1492,"  
11 the English version of the mark "HABANOS Unicos desde  
12 1492"?

13 A. Yes.

14 Question No. 178:

15 Q. What does the term "HAVANAS" as used in this  
16 ad refer to?

17 A. Habanos in Spanish.

18 Question No. 179:

19 Q. In the upper right corner of HAB 297 is the  
20 text, "Havana Cigar Divans in the Orient." What is  
21 "Havana Cigar Divan"?

22 A. That's the response that I told you  
23 previously, Havanas Cigar Divan is in advertising made  
24 to specialized stores that sell Habanos in different  
25 countries of Asia and Australia.

1 Question No. 180:

2 Q. At the bottom of the column, just above the  
3 HAB 297, the text of the ad states "Exclusive  
4 distributor of all Havana cigars for Asia Pacific.  
5 What does the term "Havana cigars" refer to in that  
6 text?

7 A. To the cigars coming from Cuba, the Habanos.

8 Question No. 181:

9 Q. Please look at what has been marked as Garcia  
10 Morejon Exhibit 7, with the Bates Numbers HAB00438-40.  
11 Can you please identify that document?

12 A. Yes. Photocopies of some pages of the Smoke  
13 magazine.

14 Question No. 182:

15 Q. Looking at HAB00439, what is the date of the  
16 magazine?

17 A. Fall 2004.

18 Question No. 183:

19 Q. Can you describe what is being shown on  
20 HAB00440?

21 A. The advertising that Habanos -- that the  
22 corporation Habanos, S.A. makes about their Casa Del  
23 Habano, the Havana House.

24 Question No. 184:

25 Q. Is HAB 440 an advertisement of Habanos, S.A.?

1           A.     Yes.

2       Question No. 185:

3           Q.     The advertisement uses the term "Habanos  
4       Unicos Desde 1492," in Spanish, correct?

5           A.     Yes.

6       Question No. 186:

7           Q.     What is "La Casa Del Habano"?

8           A.     "La Casa Del Habano," it's a franchise of  
9       specialized stores in selling only cigars from Cuba,  
10      Habanos. That means that they are -- these are  
11      specialized stores existing all over the world but  
12      they only sell products, I mean, cigars coming from  
13      Cuba, Habanos, and that's why it's called "La Casa Del  
14      Habanos" the house of the Habanos, because they only  
15      offer and sell Habanos. And it's a franchise system.

16      Question No. 187:

17           Q.     What is the meaning of that term, including  
18      specifically what does "Habano" refer to?

19           A.     Habanos, I repeat cigars coming from Cuba  
20      elaborated from Cuba with hundred percent Cuban raw  
21      material and all the things I have previously  
22      mentioned to you.

23                         (Opposer offers Garcia Morejon Exhibit 7  
24                         in evidence.)

25      Question No. 188:

1 Q. Please look at what has been marked as Garcia  
2 Morejon Exhibit 8, with the bates Numbers HAB00456-57.  
3 Can you please identify that document?

4 A. It's a photocopy of some pages of Tobacco  
5 Journal International magazine. And 57 is  
6 advertisement of Habanos with the institutional smoke  
7 image and some text.

8 Question No. 189:

9 Q. Looking at HAB00456, what is the date of the  
10 magazine?

11 A. December, January 2005. I understand it is  
12 the last edition for that year, 2005, but looking at  
13 this, it only says December, January, and underneath  
14 it has 6/2005.

15 Question No. 190:

16 Q. Can you describe what is being shown on  
17 HAB00457, including the band with the word "Habanos"  
18 in the lower right?

19 A. This is, as I said, the advertisement insert  
20 with the smoke image, institutional smoke image and  
21 also the sticker saying Habanos denomination of origin  
22 protected.

23 Question No. 191:

24 Q. Is HAB 457 an advertisement of Habanos, S.A.?

25 A. Yes.



1 Question No. 192:

2 Q. Can you understand the English text in the  
3 advertisement?

4 A. Yes.

5 (Opposer offers Garcia Morejon Exhibit 8  
6 in evidence.)

7 Question No. 193:

8 Q. Can you read the third line of text in the  
9 advertisement on HAB 457?

10 A. The third line Habanos cigar is one of them.

11 Question No. 194:

12 Q. Does Habanos, S.A. use the Habanos Unicos  
13 Desde 1492 mark in its promotional and marketing  
14 activities outside the United States?

15 A. Yes.

16 Question No. 195:

17 Q. Does it use that mark in its English  
18 translation as well as in the Spanish?

19 A. Yes.

20 Question No. 196:

21 Q. Please look at what has been marked as Garcia  
22 Morejon Exhibit 9, with the Bates Number HAB00038.  
23 Can you please identify that document?

24 A. This is a carton packet of Habanos where you  
25 can see the institutional smoke image and the

1 institutional logo with the Habanos Unicos since 1492  
2 in four languages.

3 Question No. 197:

4 Q. Is this a product of Habanos, S.A.?

5 A. Yes. It used to be a promotional packaging.  
6 As of now, we only use it in two languages which is  
7 English and Spanish.

8 Question No. 198:

9 Q. How does Habanos, S.A. use this product?

10 A. To promote our products, this is a carton  
11 package where we put -- we place the cigars to promote  
12 them.

13 Question No. 199:

14 Q. In what languages is the mark Habanos Unicos  
15 Desde 1492 shown in Exhibit 9?

16 A. It is in Spanish, English, French and German.

17 Question No. 200:

18 Q. Can you please read aloud the text on Exhibit  
19 9?

20 A. Habanos unique since 1492. Habanos unique --  
21 I don't speak French, I don't know, and the other is  
22 in German. Habanos in German.

23 (Witness read text in four languages.)

24 (Opposer offers Garcia Morejon Exhibit 9  
25 in evidence.)

1 Question No. 201:

2 Q. Were you previously given a copy of any of  
3 the questions asked here today?

4 A. No.

5 Question No. 202:

6 Q. Were you previously shown any of the  
7 questions that have been asked here today?

8 A. No.

9 Question No. 203:

10 Q. Were you previously told orally what any of  
11 the questions would be here today, even if you were  
12 not shown the questions?

13 A. No. No, I was not shown or read any  
14 question. We just discussed in general terms about  
15 this deposition.

16 Question No. 204:

17 Q. Did you have any discussions in preparation  
18 for this deposition with anyone other than the  
19 attorneys for Habanos?

20 A. Only with the Habanos.

21 APPLICANT'S CROSS WRITTEN QUESTIONS

22 Question No. 1:

23 Q. Have you heard anyone from the United States  
24 referring to Cuban cigars as HAVANA CLUB cigars?

25 OBJECTION: Objection, relevance.

1 THE WITNESS: No.

2 Question No. 2:

3 Q. Have you heard anyone from the United States  
4 referring to rum as HAVANA CLUB rum?

5 OBJECTION: Objection, relevance.

6 THE WITNESS: Yes.

7 Question No. 3:

8 Q. Are you aware of the existence of the brands  
9 registered in the U.S. Patent and Trademark Office  
10 that include the word HABANA, attached hereto as  
11 Exhibit "A"?

12 OBJECTION: Objection to the form, vague  
13 and ambiguous; objection, relevance.

14 THE WITNESS: I only know Habana in  
15 Spanish with a B. I only know number six, which is  
16 one of our registrations at the U.S. Patent and  
17 Trademark Office.

18 Question No. 4:

19 Q. Can you please list those trademarks included  
20 in Exhibit "A" that you are not aware of.

21 OBJECTION: Objection to the form, vague  
22 and ambiguous; objection, relevance.

23 THE WITNESS: I know nothing.

24 Question No. 5:

25 Q. Do you agree with the definition for HABANOS

1 of the dictionary excerpt attached hereto as Exhibit  
2 "B"?

3 OBJECTION: Objection, no English  
4 translation provided to Exhibit B; objection,  
5 relevance.

6 THE WITNESS: Well, there's three  
7 definitions for Habanos, number, one, two and three.  
8 First, this is a definition that comes from a long  
9 time ago. It comes from the year 1917. But  
10 definition no. one which says pertaining to the Habana  
11 and by extension to the item of Cuba and it is more  
12 specially about tobacco, I believe it is accurate.  
13 And I also agree with the definition no. three which  
14 says a cigar made at the Cuban island with the leaf of  
15 the plant from that country. And to me, the  
16 definition no. two, which refers to the color of a  
17 light color tobacco is not accurate. I cannot say not  
18 correct, but I don't know how to say. It's not that  
19 it's not correct but it's not accurate.

20 Question No. 6:

21 Q. Is the word HABANOS used in some Spanish  
22 speaking countries to mean PURO?

23 OBJECTION: Objection, relevance.

24 THE WITNESS: To mean the Cuban origin  
25 cigar, not a cigar in general.

1 Question No. 7:

2 Q. Do you agree that the translation of your  
3 Exhibit "4" can also be: "UNIQUE CIGARS SINCE 1492"?

4 OBJECTION: Objection, relevance.

5 THE WITNESS: No, I don't agree.

6 Question No. 8:

7 Q. What is the relationship, if any, between  
8 Consolidated Cigar Corporation and Opposer?

9 OBJECTION: Objection to the form,  
10 vague; objection, relevance.

11 THE WITNESS: None.

12 Question No. 9:

13 Q. What is the relationship, if any, between  
14 Opposer and Altadis?

15 A. Altadis is Spanish company with domicile in  
16 Madrid which is 50 percent partner shareholders with  
17 Habanos. That is I'm talking about Altadis, S.A., a  
18 Spanish corporation located in Madrid which is a  
19 50 percent shareholder of Habanos. But Altadis only  
20 as that, I don't know what it means.

21 Question No. 10:

22 Q. What is the relationship, if any, between  
23 Altadis and Consolidated Cigar Corporation?

24 OBJECTION: Objection to the form,  
25 vague; objection, relevance.

1 THE WITNESS: I understand that at some  
2 point Consolidated Cigar Corporation was acquired by  
3 Altadis and became a subsidiary, but I have no  
4 knowledge about that.

5 Question No. 11:

6 Q. Are you aware of the existence of the  
7 trademark HAVANA SWEETS for cigars?

8 OBJECTION: Objection to the form,  
9 vague; objection to the extent it calls for a legal  
10 conclusion; objection, relevance.

11 THE WITNESS: Yes. Yes, I know.  
12 Question No. 12:

13 Q. Are the HAVANA SWEETS cigars sold by an  
14 entity related to the Opposer? By related, this is  
15 defined as any company that is affiliated and/or  
16 controlled by Opposer.

17 OBJECTION: Objection, relevance;  
18 objection to the form, vague, ambiguous.

19 THE WITNESS: No.  
20 Question No. 13:

21 Q. Are the cigars sold in the United States by  
22 Opposer's related company(ies) made with Cuban  
23 tobacco?

24 OBJECTION: Objection, lack of  
25 foundation, assumes facts not in evidence. Objection,

1 relevance.

2 THE WITNESS: No.

3 Question No. 14:

4 Q. Are the cigars sold in the United States by  
5 Opposer's related company(ies) made with tobacco grown  
6 from Cuban seeds?

7 OBJECTION: Objection, lack of  
8 foundation, assumes facts not in evidence. Objection,  
9 relevance; objection as to what Applicant means by  
10 "Cuban seeds" in this question.

11 THE WITNESS: That's what the  
12 registration of the brands claims. I don't know the  
13 cigar.

14 Question No. 15:

15 Q. Are you aware of the existence of the mark  
16 HABANA CUBA & DESIGN, as depicted in U.S. registration  
17 number 2,202,488?

18 OBJECTION: Objection, registration  
19 certificate or other registration documents not shown  
20 to deponent; mischaracterizes the mark. Objection,  
21 relevance.

22 THE WITNESS: Yes, I know. I'm aware.

23 Question No. 16:

24 Q. Does Opposer use the mark referred to in the  
25 previous interrogatory?



1 OBJECTION: See Objection to Question  
2 15.

3 THE WITNESS: Yes.  
4 Question No. 17:

5 Q. Where does Opposer sell the products bearing  
6 the mark referred to in the previous two  
7 interrogatories?

8 OBJECTION: See Objection to Question  
9 No. 15.

10 THE WITNESS: In other countries of the  
11 world. As examples I can give you, Germany  
12 Switzerland, England, Canada, Hong Kong, et cetera,  
13 et cetera. And so on.

14 OPPOSER'S REDIRECT WRITTEN QUESTIONS  
15 Question No. 1:

16 Q. Other than as used as part of the name of a  
17 non-Cuban cigar brand in the United States, have you  
18 ever seen or heard the words "Habana," "Habanos," used  
19 in connection with cigars, to mean anything other than  
20 a cigar from Cuba?

21 OBJECTION: Applicant objects to  
22 Opposer's redirect question no. 1 as being irrelevant,  
23 confusing and vague.

24 THE WITNESS: Yes.  
25 Question No. 2:

1           Q.    To your knowledge in your capacity as  
2 Commercial Vice President of Habanos from 1996 to the  
3 present, has Habanos ever sold seeds from Cuban grown  
4 tobacco for export from Cuba?

5                   OBJECTION: Applicant objects to  
6 Opposer's redirect questions no. 2, 3 and 4 as being  
7 irrelevant. The witness' knowledge is irrelevant as  
8 to whether Opposer has sold seeds or not. There is no  
9 foundation laid to indicate that any and all exports  
10 of Cuban Tobacco seeds have to be authorized by the  
11 witness.

12                   THE WITNESS: No.  
13 Question No. 3:

14           Q.    To your knowledge in your capacity as  
15 Commercial Vice President of Habanos from 1996 to the  
16 present, has Habanos ever authorized the export of  
17 seeds of Cuban grown tobacco?

18                   THE WITNESS: No.  
19 Question No. 4:

20           Q.    Do you otherwise have any knowledge of the  
21 sale or export of seeds from Cuban grown tobacco since  
22 you began to work for Habanos in 1996?

23           A.    No.

24           APPLICANT'S RECROSS-EXAMINATION WRITTEN QUESTIONS  
25 Question No. 1:

1 Q. Have you seen the word HAVANA, HABANA or  
2 HABANOS used with products other than Cigars?

3 A. Yes.

4 Question No. 2:

5 Q. The products that use the mark HAVANA, HABANA  
6 or HABANOS that you have seen, were they produced or  
7 manufactured in Cuba?

8 A. Yes. Havana Club rum.

9 Question No. 3:

10 Q. Do you contend that your position as Vice  
11 President of Habanos enables you to know and/or  
12 approve any exports of tobacco seeds from the Republic  
13 of Cuba?

14 A. I don't understand the question.

15 (Question repeated by interpreter.)

16 THE WITNESS: Does the question mean if  
17 in my position I'm the one who approves any exports of  
18 tobacco from the Republic of Cuba? I don't know if  
19 that is what the question means. Can you repeat one  
20 more time in English?

21 (Question repeated in English.)

22 THE WITNESS: I don't understand the  
23 question, not in Spanish and not in English. If  
24 nobody can explain to me, I cannot answer the  
25 question.

(Deposition on written questions  
concluded at 11:34.)

\* \* \* \* \*

RE: CORPORACION HABANOS, S.A. VS. ANNCAS, INC.

PAGE	LINE	CHANGE	REASON
------	------	--------	--------

San Antonio, Texas 78230  
Fax (210) 558-3670

1 I, MANUEL GARCIA MOREJON, have read the foregoing  
2 deposition and hereby affix my signature that same is  
3 true and correct, except as noted above.  
4  
5

6  
7 \_\_\_\_\_  
8 MANUEL GARCIA MOREJON, Witness  
9 -----

10 THE STATE OF \_\_\_\_\_ )  
11 COUNTY OF \_\_\_\_\_ )  
12

13 Before me, \_\_\_\_\_, on this day  
14 personally appeared MANUEL GARCIA MOREJON, known to me  
15 (or proved to me under oath or through  
16 \_\_\_\_\_ (description of identity card or  
17 other document) to be the person whose name is  
18 subscribed to the foregoing instrument and  
19 acknowledged to me that they executed the same for the  
20 purposes and consideration therein expressed.

21 Given under my hand and seal of office this  
22 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
23

24 \_\_\_\_\_  
25 NOTARY PUBLIC IN AND FOR THE  
STATE OF \_\_\_\_\_  
COMMISSION EXPIRES: \_\_\_\_\_

## TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Trademark Application

Serial No. 78/363024

Filed February 5, 2004

For the mark HAVANA CLUB

Published in the Official

Gazette on December 14, 2004

\_\_\_\_\_)  
CORPORACION HABANOS, S.A., )

) Opposition No. 91165519

Opposer, )

v. )

ANNCAS, INC., )

Applicant. )

\_\_\_\_\_)  
CERTIFICATE FROM THE  
DEPOSITION ON WRITTEN QUESTIONS  
OF MANUEL GARCIA MOREJON  
MAY 15, 2007

I, MONIQUE M. HINCHCLIFF, a Certified Shorthand  
Reporter in and for the State of Texas, do hereby  
certify that the foregoing deposition on written  
questions is a full, true and correct transcript;

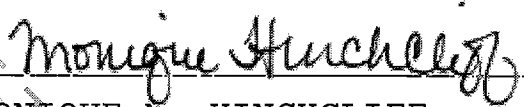
That the foregoing deposition on written questions  
of MANUEL GARCIA MOREJON, the Witness, hereinbefore  
named was at the time named, taken by me in  
stenograph, on May 15, 2007, the said Witness having  
been by me first duly cautioned and sworn to tell the

1 truth, the whole truth, and nothing but the truth, and  
2 the same were thereafter reduced to typewriting by me  
3 or under my direction.

4 I further certify that I am neither counsel for,  
5 related to, nor employed by any of the parties or  
6 attorneys in the action in which this proceeding was  
7 taken, and further that I am not financially or  
8 otherwise interested in the outcome of the action.

9 WITNESS MY HAND, this the 20 day of

10 June, A.D., 2007.

11  
12  
13   
MONIQUE M. HINCHCLIFF

14 Texas CSR 6199

Expiration Date: 12/31/07

15 ESQUIRE DEPOSITION SERVICES

Firm Registration No. 77

16 9901 IH-10 West, Suite 630

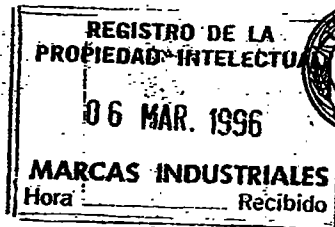
San Antonio, TX 78230

17 (210) 331-2280  
18  
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BUREAUX INTERNATIONAUX RÉUNIS  
POUR LA PROTECTION DE LA PROPRIÉTÉ INTELLECTUELLE  
Service de l'enregistrement international des appellations d'origine  
32, chemin des Colombettes, 1211 Genève 20 (Suisse)



# Certificat d'inscription au registre international des appellations d'origine

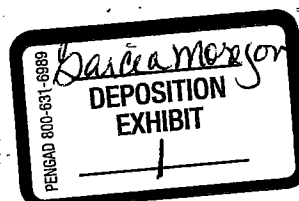
(Arrangement de Lisbonne du 31 octobre 1958)

Les indications figurant au verso sont conformes aux inscriptions faites au  
Registre international des appellations d'origine.

Genève, le 24 OCT. 1968

Bureaux internationaux réunis  
pour la protection  
de la propriété intellectuelle

pr le Directeur:



Date d'enregistrement N° d'enregistrement

27 décembre 1967 478

Pays requérant:

RÉPUBLIQUE DE CUBA

Administration compétente:

Registro de la propiedad industrial,  
Teniente Rey N° 405, La Habana

Titulaire(s):

Empresa Cubana del Tabaco (Cubatabaco)

Appellation d'origine:

HABANOS

Produit:

Cigares

Aire de production:

Tout le territoire national de la République  
de Cuba

Titre et date des dispositions législatives ou réglementaires  
ou décisions judiciaires reconnaissant la protection dans  
le pays d'origine:

Décret N° 3598 du 23 novembre 1967

Date d'envoi de la demande:

15 décembre 1967

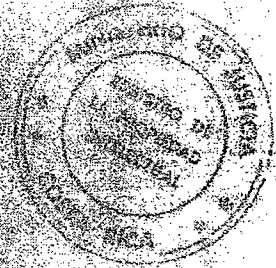
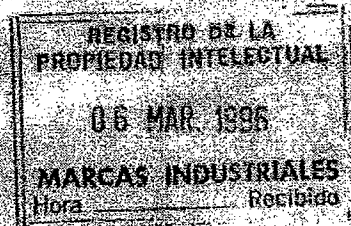


---

Number	478
Date	27.12.1967
Holder	Empresa Cubana del Tabaco (Cubatabaco)
Appellation	<b>HABANOS</b>
Publication	N° 3 : 09/1968
Country of Origin	CU
Nice Classification	34
Product	Cigares / Cigars / Cigarros puros
Area of Production	Tout le territoire national de la République de Cuba / The entire national territory of the Republic of Cuba / Todo el territorio nacional de la República de Cuba
Legal basis	Décret N° 3598 du 23 novembre 1967 / Decree N° 3598 of November 23, 1967 / Decreto 3598 de 23 de noviembre de 1967
Refusal	MX - 08.08.1969
Language	Français / French / Francés
Note	À l'égard des enregistrements internationaux effectués à partir du 1er avril 2002, les traductions de l'appellation d'origine et, le cas échéant, leur translittération, figurent dans des rubriques distinctes de celle de l'appellation d'origine elle-même / With regard to international registrations effected from April 1, 2002 onwards, the translation of an appellation of origin and, where relevant, its transliteration, will appear under a heading separate from that of the appellation of origin itself / Con respecto a los registros internacionales efectuados a partir del 1° de abril de 2002, las traducciones de las denominaciones de origen y, cuando sea pertinente, sus transcripciones, deberán aparecer bajo títulos diferentes de aquellos relativos a dichas denominaciones de origen



BUREAUX INTERNATIONAUX RÉUNIS  
POUR LA PROTECTION DE LA PROPRIÉTÉ INTELLECTUELLE  
Service de l'enregistrement international des appellations d'origine  
32, chemin des Colombettes, 1211 Genève 20 (Suisse)



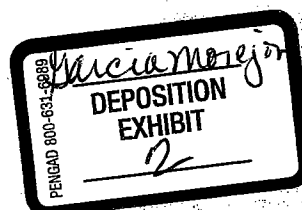
## Certificat d'inscription au registre international des appellations d'origine

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pour la protection  
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pr le Directeur:



Date d'enregistrement

27 décembre 1967

N° d'enregistrement

479

Pays requérant:

RÉPUBLIQUE DE CUBA

Administration compétente:

Registro de la propiedad industrial,  
Teniente Rey N° 405, La Habana

Titulaire(s):

Empresa Cubana del Tabaco (Cubatabaco)

Appellation d'origine:

HABANA

Produit:

Tabac en branche ou manufacturé, ainsi que les  
produits élaborés avec ce tabac

Aire de production:

Province de La Havane

Titre et date des dispositions législatives ou réglementaires  
ou décisions judiciaires reconnaissant la protection dans  
le pays d'origine:

Decret N° 3599 du 23 novembre 1967

Date d'envoi de la demande:

18 décembre 1967

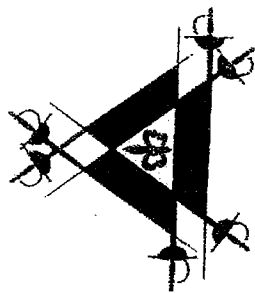


---

Number	479
Date	27.12.1967
Holder	Empresa Cubana del Tabaco (Cubatabaco)
Appellation	<b>HABANA</b>
Publication	N° 3 : 09/1968
Country of Origin	CU
Nice Classification	34
Product	Tabac en branche ou manufacturé, ainsi que les produits élaborés avec ce tabac / Leaf or manufactured tobacco, as well as products made with such tobacco / Tabaco en rama o manufacturado, así como los productos elaborados con este tabaco
Area of Production	Province de La Havane / Province of Havana / Provincia de La Habana
Legal basis	Décret N° 3599 du 23 novembre 1967 / Decree N° 3599 of November 23, 1967 / Decreto 3599 de 23 de noviembre de 1967
Refusal	MX - 08.08.1969
Language	Français / French / Francés
Note	À l'égard des enregistrements internationaux effectués à partir du 1er avril 2002, les traductions de l'appellation d'origine et, le cas échéant, leur translittération, figurent dans des rubriques distinctes de celle de l'appellation d'origine elle-même / With regard to international registrations effected from April 1, 2002 onwards, the translation of an appellation of origin and, where relevant, its transliteration, will appear under a heading separate from that of the appellation of origin itself / Con respecto a los registros internacionales efectuados a partir del 1° de abril de 2002, las traducciones de las denominaciones de origen y, cuando sea pertinente, sus transcripciones, deberán aparecer bajo títulos diferentes de aquellos relativos a dichas denominaciones de origen



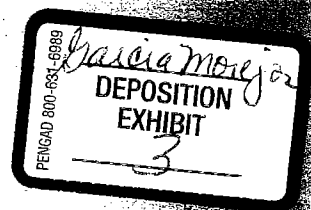


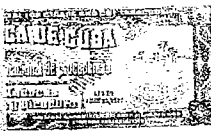


**MONTECRISTO**

HABANA - CUBA

5 No.3





**Habanos S.A.**  
**HECHO EN CUBA**  
*Tradicionalmente a mano*





7029705

# THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

September 12, 2006

THE ATTACHED U.S. TRADEMARK REGISTRATION 2,177,837 IS  
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND  
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN  
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES  
PATENT AND TRADEMARK OFFICE.

REGISTERED FOR A TERM OF 10 YEARS FROM August 04, 1998

SECTION 8

SAID RECORDS SHOW TITLE TO BE IN:

*Registrant*

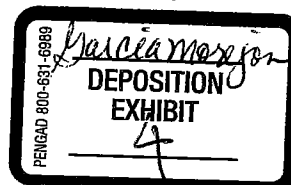
By Authority of the

Under Secretary of Commerce for Intellectual Property  
and Director of the United States Patent and Trademark Office



P. SWAIN

Certifying Officer



Int. Cl.: 34

Prior U.S. Cls.: 2, 8, 9 and 17

**United States Patent and Trademark Office**

Reg. No. 2,177,837

Registered Aug. 4, 1998

**TRADEMARK  
PRINCIPAL REGISTER**



CORPORACION HABANOS, S.A. (CUBA CORPORATION)  
MERCADERES NO. 21  
ENTRE O'REILLY Y EMPEDRADO  
HAVANA, CUBA

FOR: RAW TOBACCO, CIGARS, CIGARETTES, CUT TOBACCO RAPPÉE, MATCHES, TOBACCO, TOBACCO PIPES, PIPE-HOLDERS, ASHTRAYS, MATCH BOXES, CIGAR CASES, AND HUMIDORS, IN CLASS 34 (U.S. CLS. 2, 8, 9 AND 17).

OWNER OF CUBA REG. NO. 121,980, DATED 1-10-1995, EXPIRES 1-10-2005.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HABANOS UNICOS DESDE 1492", APART FROM THE MARK AS SHOWN.

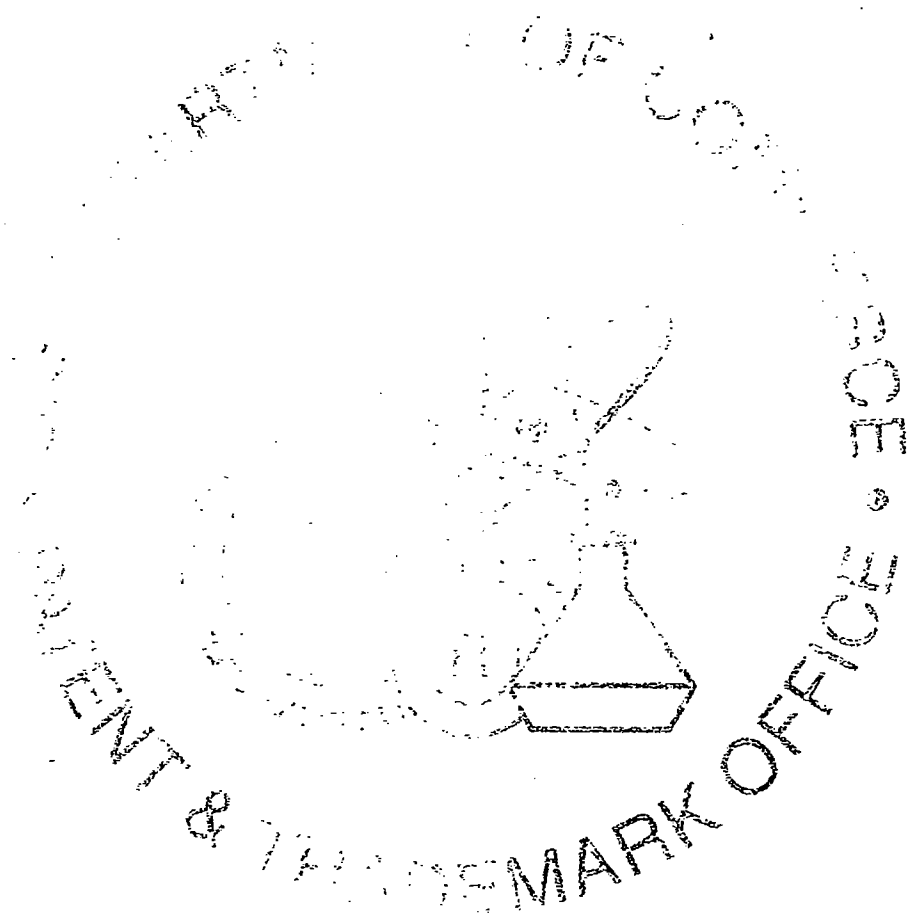
THE MARK IS LINED FOR THE COLORS RED AND GOLD. THE LINING COMPOSING THE DESIGN OF THE TOBACCO LEAF DOES NOT INDICATE COLOR BUT IS A FEATURE OF THE MARK.

THE MARK CONSISTS OF A BLACK RECTANGLE WITH THE DESIGN OF A TOBACCO LEAF AND THE WORDING "HABANOS UNICOS DESDE 1492."

THE ENGLISH TRANSLATION OF THE WORDS "HABANOS UNICOS DESDE" IN THE MARK IS "UNIQUE HAVANA CIGARS SINCE".

SER. NO. 75-151,320, FILED 8-16-1996.

DAVID C. REIHNER, EXAMINING ATTORNEY







OCTOBER 1998

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HAB00264

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LONDON W1Y 5HE  
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Fax: 44 (0)171 499 4866



## Selfridges

TOBACCO DEPARTMENT  
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LONDON W1A 1AB  
Tel: 44 (0)171 629 1234  
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## Walter Thurgood

SALISBURY HOUSE  
161-162 LONDON WALL  
LONDON EC2M 5QD  
Tel: 44 (0)171 628 5437  
Fax: 44 (0)171 930 5887

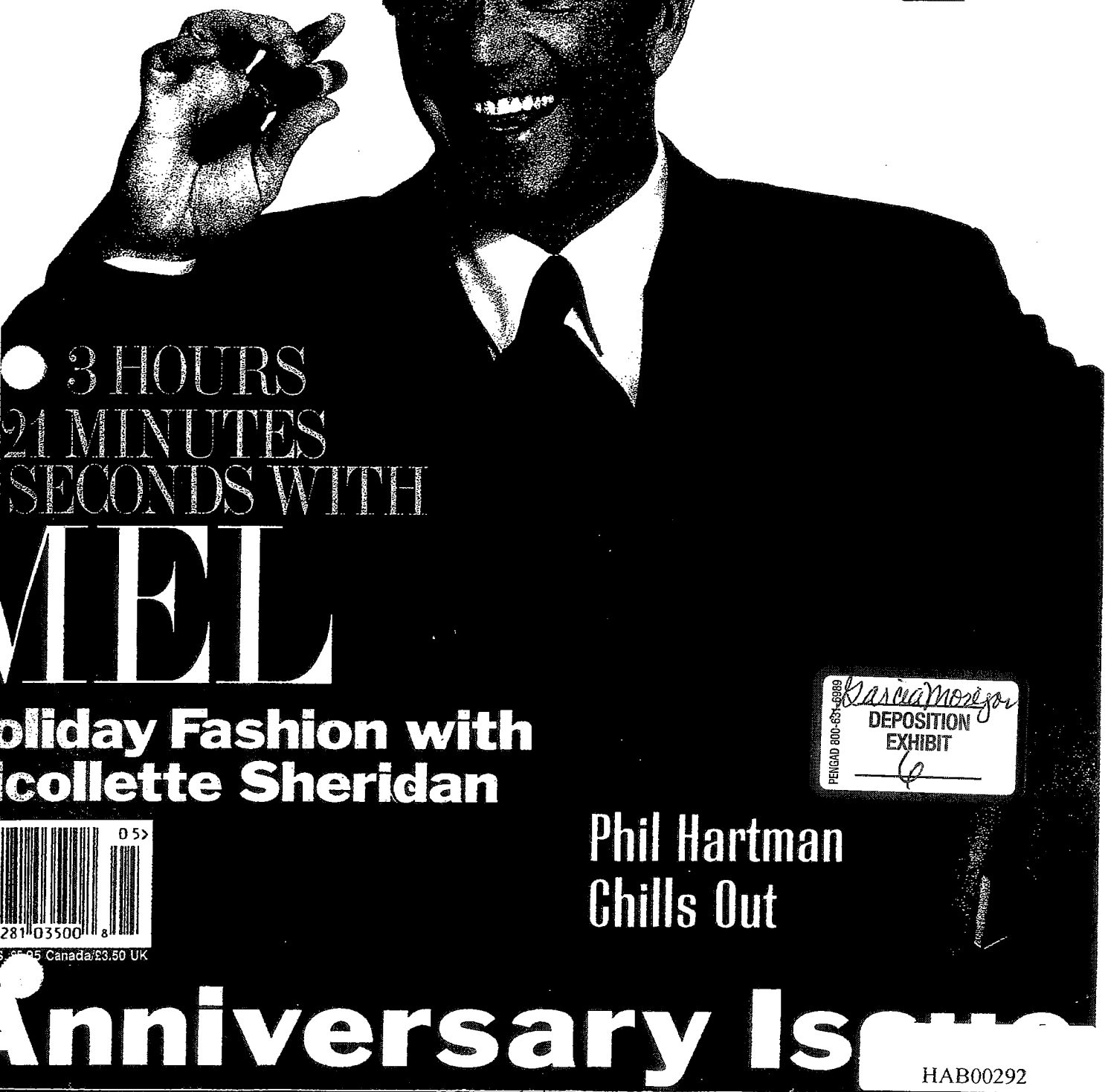
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*Raschamora*  
DEPOSITION  
EXHIBIT  
*[Signature]*

# Anniversary Issue

HAB00292

# SMOKE™

WINTER 1996/1997  
VOLUME II  
ISSUE I

## cover

### 108 Mel The Magnificent

After landing a pair of gold statuettes at last year's Academy Awards, actor/director/producer Mel Gibson shows no signs of slowing down. Hollywood's most bankable commodity sits with Seven McDonald for an exclusive interview.

## features

### 56 SMOKE America: Lone Star Cigars

Bob Ashley's back with our continuing series on USA born & bred cigar companies. This issue, Bob heads deep into the heart of Texas for a look at Finck Cigar Co.

### 70 SMOKE Pictorial: Made in Japan

Kiseru pipes once dominated Japanese tobacco tradition; today they are mainly found in souvenir shops and museums.

### 78 I Spy for the FBI

What do James Bond, Maxwell Smart, and Derek Flint have in common? Find out as Chris Rubin looks at the latest in high-tech spy gadgetry.

### 89 Big Apple Shopping

New York, New York, it's a helluva town, particularly for stogie-lovers. Sean T. Barry scopes out NYC's illustrious smokeshops and lounges.

### 118 The Fine Art of Smoking

Magritte may not have had his pipe, but Ruby Tuesday has his cigar. Jim Mauro and John Scotello explore the relationship between fine art and fine cigars.

### 126 Briar Patch

Alan Schwartz goes to Saint-Claude, France the birthplace of briar. Magnifique! Plus, Ultimate author Richard Carlton Hacker explains how Santa got his pipe.

### 140 A Woman's World

Entertainment editor Seven McDonald wrangles an open panel of gal pals who discuss the finer points of cigars, men, and oral sex.

### 146 That Voodoo That You Don't

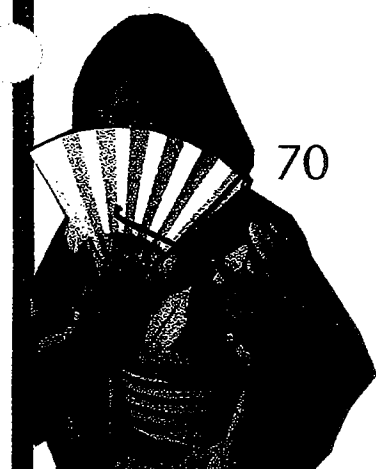
Santeria, everybody's favorite spooky religion, puts cigar smoking in a whole new light. Michael Karnow gets ritualistic with a Santeria priest and proves he's no chicken.

### 154 Age of Enlightenment

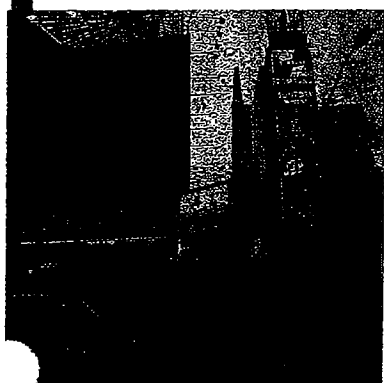
Dr. Adrian Bartoli's continuing guide to cigar maturation further explains the science behind aging your precious smokes.



108



70



89

HAB00293

WINTER ISSUE • SMOKE

LA CASA DEL HABANO



473 Ouellette Avenue  
Windsor, Ontario  
Canada N9A 4J2

Tel: (519) 254 0017  
Fax: (519) 254 1482

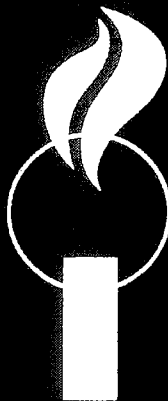
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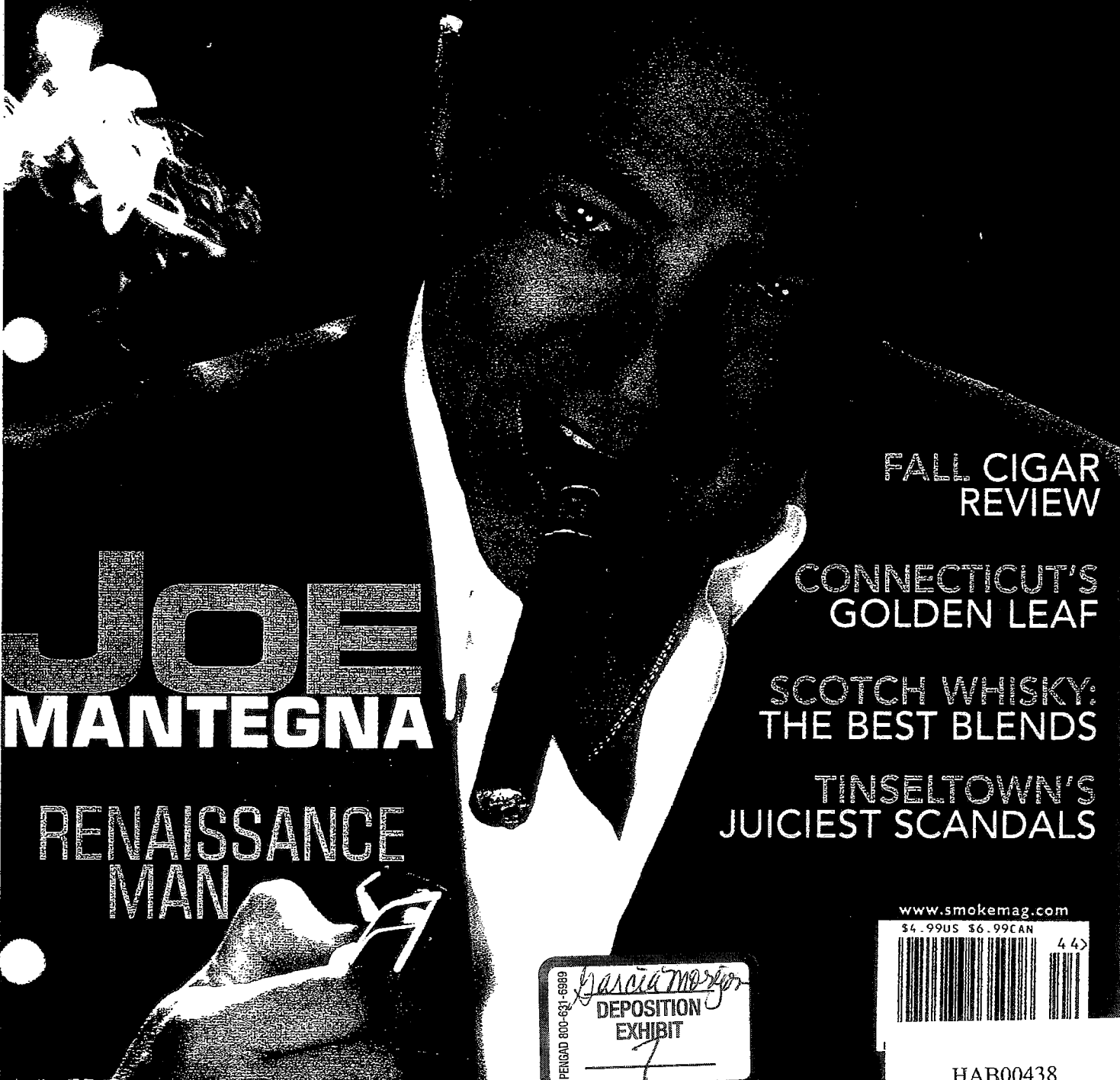
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HAB00297



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HAB00438

## Features

### 14 Chicago Loves Cigars

While New York and L.A. continue to systematically shun them, the Midwest's Windy City continues to provide a haven for defiant cigar enthusiasts. Not only does Chicago boast a wealth of smoke shops with great selections and distinctive neighborhood flair, it also offers bars, restaurants, and nightlife destinations that actually welcome your lit logic. Favorite son Mike Ditka and civic hero Michael Jordan — cigar smokers both — would surely be proud.

by Gerry Edelman

photos by Linda Gits and Marty Bader

### 2 Leaves of the Valley

As cigar makers from Santiago to Esteli grow, some of the best wrapper tobacco in the world comes from the U.S., specifically from a small valley in northern Connecticut that has a longer tobacco tradition than most realize. Building on the continuing success of its golden-brown shade and dark, oily roadleaf, the growers of the Connecticut River Valley have gone back to the past, reviving a spicy, century-old Havana-seed leaf that is well on its way to becoming the hottest new cigar wrapper on the market.

by Mark Bernardo

### 8 Cigar-Friendly Wheels

There's nothing quite like cruising down a long stretch of road while leisurely puffing on a favorite cigar. For some people in some places, their automobile is the only place where they can truly enjoy a smoke in peace. Of course, not all cars are created equal, and some are more suitable than others for the highly personal practice of road smoking. We choose the best in three popular categories — a road-scorching sports car, a good Jeep, and a hybrid pick-up truck — for driving and puffing pleasure.

by Koert Farago

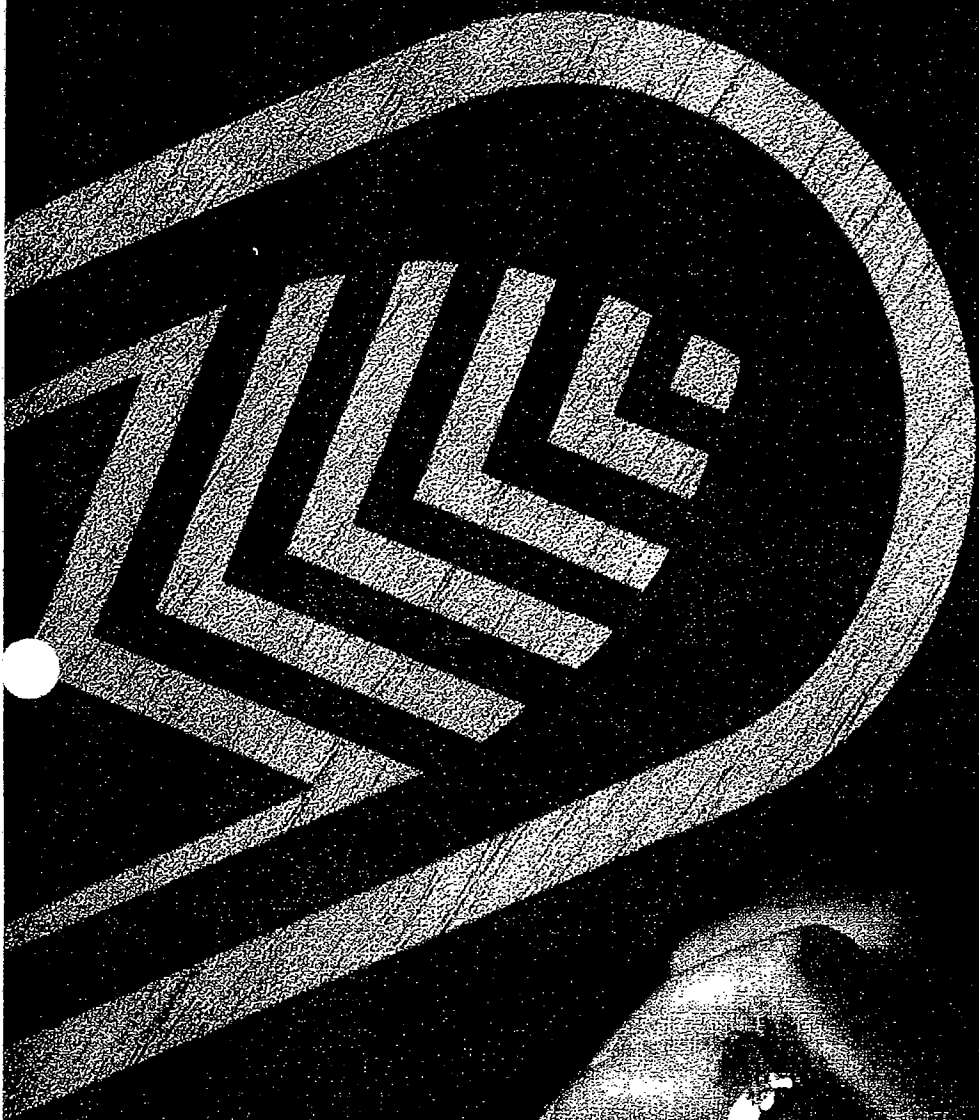


## cover story

# 47 THE MANY FACES OF JOE MANTEGNA

After 184 movies, numerous TV appearances, and a theater career that includes a Tony Award, Joe Mantegna has built a career that has defied typecasting and defined versatility. Equally comfortable playing mobsters, cops, family men, politicians, and real-life characters of all stripes, the seasoned star of TV's "Joan of Arcadia" and the upcoming film *Pontormo* (not to mention the voice of "The Simpsons" animated capo, Fat Tony, and narrator of a special-edition DVD documentary on the Fuente family) also takes time to appreciate the good things in life, including handmade cigars. By Mark Bernardo; photos by Chris Amerman

LA CASA DEL HABANO



HAB00440



**Habanos**

Únicos desde 1492





# TOBACCO JOURNAL

I N T E R N A T I O N A L

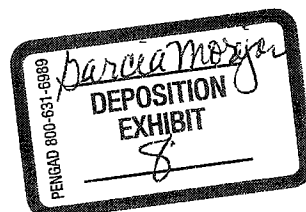
DECEMBER/JANUARY



► Portrait: Sven Hindrikes,  
CEO of Swedish Match

► Country special:  
India's tobacco market

► Monitor: Asia-Pacific  
in a global context



HAB00456

THERE ARE JUST FEW THINGS IN THE WORLD THAT ARE  
KNOWN WITHOUT QUESTION TO BE BEST OF THEIR KIND.

A HABANO, OR HAVANA CIGAR, IS ONE OF THEM.  
THE NATURE OF CUBA'S SOIL AND CLIMATE COMBINED  
WITH THE KNOWLEDGE OF CUBAN FARMERS  
AND CIGAR MAKERS PASSED DOWN FROM  
GENERATION TO GENERATION MAKES  
THE HABANO A UNIQUE PRODUCT.

HECHO EN CUBA

THE TERM "HABANOS" IS THE PROTECTED  
DENOMINATION OF ORIGIN RESERVED EXCLUSIVELY  
FOR THE FINEST CIGAR BRANDS MADE IN CUBA  
USING TRADITIONAL METHODS AND FOLLOWING  
THE MOST RIGOROUS STANDARDS.  
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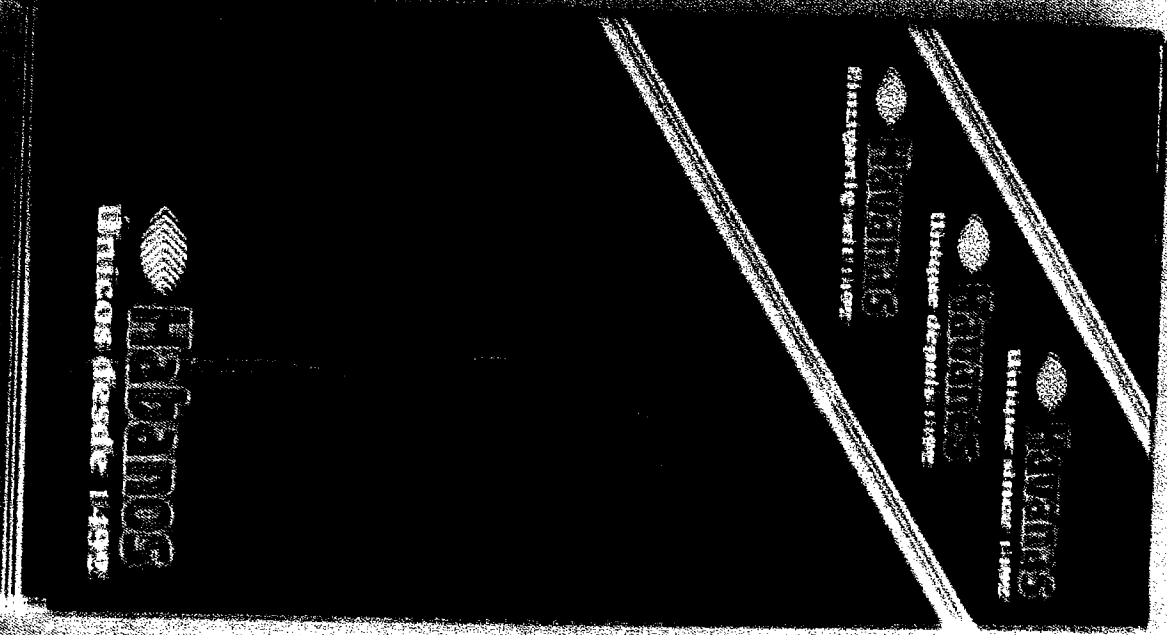
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9

### **CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the Deposition of Manuel Garcia Morejon, and Exhibits thereto, was served on Applicant by mailing, postage prepaid, said copy on June 29, 2007, via U.S. Mail, postage prepaid, to:

Jesus Sanchelima, Esq.  
SANCHELIMA & ASSOCIATES, P.A.  
235 S.W. Le Jeune Road  
Miami, FL 33 134- 1762

Counsel for Applicant Anncas, Inc.

  
\_\_\_\_\_  
DAVID B. GOLDSTEIN